



HM INSPECTORATE OF PROBATION

THEMATIC INSPECTION REPORT

Towards

Race

Equality

2000



## Foreword

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The murder of Stephen Lawrence and the subsequent Macpherson report provided a catalyst for change that has fundamentally altered the way our society perceives the criminal justice system. The Home Secretary has made a firm commitment to promote race equality and set targets to achieve the changes required. I therefore decided that it was timely to assess the work of probation services by looking at both employment practice and work with minority ethnic offenders and racially motivated offenders.

We have carried out a comprehensive inspection and although there were some examples of good practice, I was dismayed by many of the findings, of which some raised very serious concerns. The attention given by probation services to the promotion of equal opportunities during the 1980s and early 1990s has clearly diminished in recent years. I was particularly disturbed about the disparities found in a number of areas of practice between the approach to work with white offenders compared to minority ethnic offenders. Although there was a commitment to work with racially motivated offenders, few services had produced the detailed guidance necessary to translate this into operational reality.

Good employment practices in a number of services are highlighted in the report but significant work is required regarding the recruitment, selection, promotion and retention of minority ethnic staff. Attention must also be given to the supervision of staff, to their support and development needs. This work is essential and will benefit not only minority ethnic staff but also all those working with minority ethnic offenders and racially motivated offenders.

The key themes arising from the report are that:

- race equality cannot be seen as an optional extra. It is a "given" and must be integrated into all aspects of our work
- we must both challenge and address the behaviour of minority ethnic offenders. Work must also be undertaken to confront and change the racist attitudes and behaviour of offenders. Race equality is integral to "What Works" and we must increasingly apply its principles to work with these offenders
- race equality is synonymous with good practice and is central to the core business of the probation service in addressing risk and protecting the public. The service would fail its duty of serving the courts and the public by not addressing race equality effectively.

The recommendations in the report provide a specific agenda for action, both at a national and local level, to achieve the required changes and meet the Home Secretary's targets. During the transition to a new national service, race equality should

be built into the very foundations ensuring that the current commitment will be sustained.

HM Inspectorate of Probation will continue to examine race equality issues as an integral part of all inspections and will focus, in particular, on the implementation of local strategies. I must stress that the findings have relevance and implications for all criminal justice organisations, including the Inspectorate. I have therefore made a commitment to review our own practice and produce an action plan to achieve changes both internally and in our external work.

**SIR GRAHAM SMITH CBE**  
**HM Chief Inspector of Probation**



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Finally, HM Inspectorate of Probation would like to acknowledge the contribution made by John Eastwood who brought his usual high standards to his last thematic project.

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May 2000



## 1. INTRODUCTION, AIM AND OBJECTIVES

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1.1 The inquiry report into the death of Stephen Lawrence<sup>1</sup> was published in February 1999. Although it had focused on the police investigation of Stephen Lawrence's death, its findings and recommendations were directed at all criminal justice agencies. The report, in its conclusion, stated:

*"Furthermore our conclusions as to the Police Service should not lead to complacency in other institutions and organisations. Collective failure is apparent in many of them, including the Criminal Justice system. It is incumbent on every institution to examine their policies and the outcome of their policies and practices to guard against disadvantaging any section of our communities."* (para 46.27)

1.2 In presenting the report to Parliament, the Home Secretary emphasised the responsibility placed on every individual to tackle racism and make race equality a reality. The majority of the proposals were accepted by the government. In March 1999 the Home Secretary published his Action Plan which contained detailed proposals on the implementation of the recommendations and in July 1999 he announced targets for the recruitment, retention and career progression of minority ethnic staff within probation and other services.

1.3 HM Chief Inspector of Probation (HMCIP), having recognised the significance for probation services of the findings of the Stephen Lawrence inquiry, decided to undertake a thematic inspection of race equality to assess the current position within probation services and provide guidance in taking the work forward. In May 1999, HMCIP wrote to all chief probation officers (CPOs) in England and Wales informing them that the inspection "Towards Race Equality" would be carried out in the autumn of 1999.

1.4 The aims and objectives of the inspection were:

*AIM:*

*To determine the extent to which probation services promote and achieve race equality in its employment practices and in its work with offenders.*

<sup>1</sup> The Stationery Office *The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William Macpherson of Cluny* (February 1999). The report of the inquiry into the matters arising from the death of Stephen Lawrence is hereafter referred to as the Macpherson report to distinguish it from previous reports.

#### OBJECTIVES:

1. Ascertain how far the policies and practices determined by probation committees and implemented by services promote and achieve race equality.
2. Examine the extent to which probation services achieve race equality in their employment practices.
3. Examine the degree to which probation services ensure equality of provision for offenders from minority ethnic groups.
4. Ascertain, insofar as is possible, the effectiveness of work with offenders from minority ethnic groups.
5. Determine how far probation services have addressed the requirements of the Crime and Disorder Act 1998<sup>2</sup> in the implementation of new legislation on racially motivated crime.
6. Make recommendations, as appropriate, based on the findings of this inspection, to achieve improvement.

#### Methodology

- 1.5 An advisory group was formed which consisted of staff from HM Inspectorate of Probation (HMIP) together with Helen Allen, senior probation officer (SPO), Greater Manchester Probation Service; Michelle Berry, administrative officer, Home Office; Rose Burgess, then an SPO, Berkshire Probation Service; Glenda Joseph, chair of the Association of Black Probation Officers (ABPO); Shamim Khan, general secretary, National Association of Asian Probation Staff (NAAAPS); Claudia Lewis-Moore, then assistant chief probation officer (ACPO) in Hereford & Worcester but later as HM inspector (HMI); Peter Oteng, senior executive officer, Commission for Race Equality, (CRE); Tom McQuillan, consortium manager, Probation North-West Consortium and Gurdev Singh, probation officer (PO), then with the Leicestershire & Rutland Probation Service. All brought different perspectives to the inspection. The group assisted in planning the inspection and individual members accompanied HMIs on each visit to the services selected. All contributed to the inspection findings and commented on the draft report. However, HMIP remains responsible for the report, its conclusions and recommendations.
- 1.6 The inspection was undertaken in two phases:

<sup>2</sup> The Crime and Disorder Act 1998 received Royal Assent on 31 July 1998. The provisions of the Act relating to racially aggravated crime were implemented on 30 September 1998.

- Phase One consisted of an audit of all 54 probation services, addressing available probation committee policies and practice guidance. It was undertaken in the summer of 1999 and responses were received from every service
- Phase Two consisted of visits to 10 probation services<sup>3</sup> between September and December 1999. In order to focus on all aspects of race equality, the services selected included those serving both rural and inner-city areas and represented a spread in terms of size and the percentage of the population from minority ethnic groups.

1.7 Standards and criteria<sup>4</sup> were developed for the inspection, based on national standards 1995<sup>5</sup> and guidance given by the Advisory, Conciliation and Arbitration Service (ACAS) and the CRE. A comprehensive inspection schedule was drawn up, piloted in the South Yorkshire Probation Service and then used during the inspection.

1.8 Prior to each visit, the 10 services were asked to provide HMIP with the names and location of all their minority ethnic employees, of whatever grade. A confidential questionnaire<sup>6</sup> was then sent via the service to each person named, seeking their views on relevant issues covered by the inspection. In total, 643 questionnaires were dispatched, of which 185 (29 per cent) were returned. The response rate from services varied considerably, from 17 per cent in South East London to 64 per cent in Avon. HMIP has since been advised that some staff did not receive the questionnaire, either because their names were not included amongst those submitted, or because of a breakdown in communication within their service. Other staff declined to complete the questionnaire. Although the response rate was low, the returns provided much valuable information on the performance of the service, as seen by a significant proportion of its minority ethnic staff. In addition to the questionnaire, minority ethnic members of staff were also offered the opportunity of meeting with HMIs. A significant number of staff did so and discussed a range of issues.

1.9 The inspection of the 10 probation services included meetings with probation committee members, managers and members of staff involving POs, probation services officers (PSOs), community

<sup>3</sup> Avon, Cheshire, Cornwall, South Glamorgan, Inner London, South East London, Merseyside, Nottinghamshire, West Sussex and West Midlands.

<sup>4</sup> See Appendix 1.

<sup>5</sup> The Home Office, Department of Health and Welsh Office *National Standards for the Supervision of Offenders in the Community* (1995).

<sup>6</sup> See Appendix 2 for definition of questionnaire sample and background information.

service (CS) officers, administrative, clerical and other support staff. Representatives from partner organisations and local community groups also met with HMIs. Discussions were held with interpreters, volunteers, CS beneficiaries and offenders.

1.10 An extensive examination of pre-sentence reports (PSRs) and probation service records was undertaken.<sup>7</sup> A team consisting of HMIs, members of the advisory group and practice development assessors from the North-West Consortium scrutinised a sample from each service visited of the last:

- PSRs on white offenders produced prior to 31 July 1999
- PSRs on minority ethnic offenders produced prior to 31 July 1999 but no earlier than 30 December 1997.

1.11 In addition, a one day file reading exercise was undertaken in each service visited. File reading teams were established consisting of an HMI and a member of the advisory group, together with practitioners and managers from the service concerned. Four samples focused on case files on the first:

- 20 terminated probation orders, with or without requirements, made on white offenders terminating prior to 31 July 1999
- 30 terminated probation orders with or without requirements made on minority ethnic offenders terminating prior to 31 July 1999
- 20 terminated CS orders made on white offenders terminating prior to 31 July 1999
- 30 terminated CS orders made on minority ethnic offenders terminating prior to 31 July 1999.

1.12 A detailed note, together with an analysis of the local file reading inspection, was sent to each CPO. A summary was provided for each probation committee describing the key issues arising from its service's inspection.

### **Terminology and definitions**

1.13 HMIP has adopted the definitions for institutionalised racism and a racist incident as given in the Macpherson report and accepted by the Home Secretary. Institutionalised racism is defined as:

*"The collective failure of an organisation to provide an appropriate and professional service to people because of*

<sup>7</sup> See Appendices 3 and 4.

*their colour, culture or ethnic origin. It can be seen in the processes or attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people."*

1.14 A racist incident is defined as:

*"Any incident which is perceived to be racist by the victim or any other person."*

1.15 HMIP has adopted the definitions of unlawful discrimination in the Race Relations Act 1976 used by the CRE<sup>8</sup>, namely:

- *"Direct discrimination consists of treating a person, on racial grounds, less favourably than others are or would be treated in the same or similar circumstances."*
- *"Indirect discrimination consists of applying in any circumstances covered by the Act a requirement or condition which, although applied equally to persons of all racial groups, is such that a considerably smaller proportion of a particular racial group can comply with it and it cannot be shown to be justified on other than racial grounds."*
- *Discrimination by victimisation occurs when a person "is given less favourable treatment than others in the same circumstances because it is suspected or known that he or she have brought proceedings under the Act, or given evidence or information relating to such proceedings, or alleged that discrimination has occurred."*

1.16 Positive action is the term used for measures taken under Sections 37 and 38 of the Race Relations Act 1976 enabling employers to:

- encourage applications for jobs and membership from persons of a particular racial or ethnic group
- provide training for persons of a particular racial or ethnic group to help them to develop their potential and so improve their chances when competing for posts where they have been disproportionately under-represented in the past 12 months.

1.17 The term "*racially aggravated*", as stated in the Crime and Disorder Act 1998 is used in this report to refer to the

<sup>8</sup> Commission for Racial Equality *Race Relations Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment* (April 1984).

offence and the term "racially motivated" to the offender. The Act stated that:

*"An offence is racially aggravated ... if:*

*(a) At the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership of, or association with members of, a racial group; or*

*(b) The offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group."*

1.18 The term "minority ethnic" is used to describe African, African-Caribbean, Asian and other minority groups to reflect the cultural and religious diversity found within such communities in Britain. The generic use of the word "Black" has been defined by ABPO as "a *political one which emphasises the common experiences and common determination of people of African, African-Caribbean and Asian origin to oppose the effects of racism*". The word "Black" is only employed in the report when part of a title, as in "Black Empowerment Group" or as part of an attributed quote.

1.19 The report uses the term currently adopted of "employment tribunal" also to refer to cases brought before industrial tribunals.

1.20 Offences defined as "more serious" include serious violent offences, actual bodily harm and other offences of violence, rape and other sexual offences, robbery and aggravated burglary.





## 2. SUMMARY OF FINDINGS AND RECOMMENDATIONS

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- 2.1 This chapter summarises the key findings from the inspection and makes recommendations for promoting race equality.

### Key findings

- 2.2 In the 1980s and early 1990s, many probation services, with their strong culture of commitment to justice and equality had been at the vanguard of thinking and debate, and were amongst the first of the criminal justice agencies to develop anti-discriminatory practices and procedures. Many staff, at all levels and in all services, felt that the attention given to the promotion of equal opportunities had diminished in recent years. This view was shared by HMIP. However, the publication of the Macpherson report had acted as a catalyst for action to many services.

### Pre-sentence reports

- 2.3 Despite some examples of good practice, examination revealed a significantly higher quality of reports overall written on white than on minority ethnic offenders. Overall, 60 per cent of PSRs on white offenders and 63 per cent on Asian offenders were considered to be of a satisfactory or very good standard, in contrast to 49 per cent for African/African-Caribbean offenders. The failure to comment on the management of risk in the majority of PSRs prepared on African/African-Caribbean offenders was a major concern.
- 2.4 Significant variations were found between the performance of each of the services visited. Most operated some form of quality assurance procedures but the findings raised questions about the efficacy of many of these procedures. Little use was made by any service of concordance rates to explore differences in the impact and effectiveness of reports on minority ethnic offenders. The failure by the majority of services to collect data on race and ethnic origin and monitor their performance on reports written on minority ethnic offenders contributed to inconsistent service delivery.

## Community sentences

- 2.5 Examination of the quality of supervision of minority ethnic offenders subject to probation orders revealed significant concerns in relation to African/African-Caribbean offenders, regarding risk assessments, the level of contact particularly during the later stages of the order, and enforcement practice. Many staff tended to focus on welfare concerns as opposed to offence related problems when working with offenders from minority ethnic groups.
- 2.6 As part of the implementation of their "What Works" strategy, some of the services visited had begun to consider the application of the principles of effectiveness to work with minority ethnic offenders. The commitment and enthusiasm shown by staff in the services where groups for minority ethnic offenders were evolving was commendable. A number of services had submitted their programmes for working with minority ethnic offenders for inclusion in the Home Office Pathfinder programmes which were to be developed in accordance with "What Works" principles and made available nationally. However, none met the stringent accreditation criteria. It was apparent, however, that work was required in the majority of services to develop clear objectives, structured programmes and appropriate systems for monitoring and evaluation. Further work was currently being undertaken to identify the most effective methods of working with both minority ethnic and racially motivated offenders.
- 2.7 Where used, partner organisations proved a valuable resource to services in providing culturally sensitive services to minority ethnic offenders. Some creative initiatives were found. The involvement of partner organisations in working with a small number of minority ethnic offenders with special requirements could alleviate the difficulties faced by services in meeting these offenders' different needs.
- 2.8 Despite the requirement of the national standard that a risk assessment on the offender should be undertaken before a CS placement was arranged, the sample showed that no assessment had taken place in 46 per cent of African/African-Caribbean cases, compared to 27 per cent and 20 per cent of white and Asian cases. Within the overall risk assessment, the proportion of cases where risk of harm to the public was satisfactorily assessed was higher for white offenders than for African/African-Caribbean offenders. The first work session was arranged within 10 working days for a significantly higher proportion of Asian offenders than African/African-Caribbean offenders. Little overall difference between ethnic groups was found regarding the enforcement action taken by services.

Noticeable variations, however, existed in the performance of individual services in all aspects of work relating to CS.

- 2.9 The choice of placement was influenced by specific factors identified during the assessment in a generally high proportion of all cases. However, consideration was more likely to be given to those factors with white and Asian offenders than African/African-Caribbean offenders. Evidence of racist attitudes and behaviour was identified in only 9 per cent of the cases examined. The firm approach to racist behaviour on CS sites by many CS supervisors was commendable but was undermined by the lack of attention given to racist attitudes and behaviour during assessment.
- 2.10 A noticeably higher proportion of Asian offenders completed their specified hours than either white or African/African-Caribbean offenders. A greater percentage of African/African-Caribbean offenders had their CS orders revoked than Asian offenders.

#### **Work with racially motivated offenders**

- 2.11 Although there was a commitment to work with racially motivated offenders, few of the services had, as yet, produced the detailed guidance necessary to translate this into operational reality. No commonly accepted definition of a racially motivated offender existed among services. The implications of work with racially motivated offenders for the wider staff group, particularly reception and clerical staff, had been considered by few of the services visited and needed to be both recognised and addressed by all services. All services needed to re-examine their policies in light of the acceptance of the definition of a racist incident given in the Macpherson report.
- 2.12 There was little evidence in the case files of white offenders of any work being undertaken to assess and address racially motivated offending. Some services had incorporated racially motivated offending into their risk strategy but the risk assessments examined contained no reference to concerns about offenders' racist attitudes and behaviour.
- 2.13 Work with racially motivated offenders had been given greater prominence in a number of areas by its inclusion in the local crime safety strategy. A number of services had entered into multi-agency initiatives to tackle racially motivated incidents and offending. Such innovative partnerships are to be commended and encouraged. The lack of active consideration given to the establishment of links with local minority ethnic groups by some services was of particular concern.

## Links with the community

- 2.14 The valuable contribution that can be made by local community groups cannot be overemphasised. It was apparent from discussion that all services had considerable work to do to improve their standing and gain the confidence of the local minority ethnic community both in terms of its work with offenders and as a potential employer. Services needed to ensure that there was appropriate consultation and communication with local minority ethnic communities in devising and implementing strategies by drawing on their experience and expertise.

## Policy development

- 2.15 It was positive to note from the audit undertaken that 53 services had developed an equal opportunities policy. The range of issues addressed in the policies of the services visited varied considerably. Although the majority covered recruitment, it was difficult to identify any other core element apart from a commitment to equal opportunities. A number referred to positive action measures but these were mainly limited to the content and placing of advertisements. Some services had also introduced anti-racism policies with the express intention of giving additional focus to race. There was no evidence to suggest that the promotion of race equality had been assisted by the development of specific anti-racism strategies in their current form. The failure to cross-reference the different policies developed by individual services to address race and equal opportunities inevitably resulted in inconsistencies and, on occasion, the establishment of incompatible procedures.
- 2.16 It was difficult to estimate the effect of either the equal opportunities or the anti-racism policies in the absence, in the majority of the services visited, of a supporting action plan with agreed outcome measures. It was apparent that most services were unable to assess any change or improvement in their practice or to monitor and review the implementation of the policies. The amount and quality of information presented to probation committees on the implementation of their equal opportunities and anti-racism policies varied considerably from service to service. It was difficult to see how many probation committees could claim that equal opportunities was a priority and were meeting their obligations as employers to prevent unlawful discrimination. The failure of many services to review and update the policies or to make use of the information available on race issues was seen as symptomatic of the low

importance given to equal opportunities and needed to be addressed as a matter of urgency.

### **Recruitment of staff**

- 2.17 According to 1998 figures, the proportion of minority ethnic staff employed by the service was considerably higher than that of the minority ethnic working population based on the recent Labour Force Survey. The majority of the services visited had a strategy either in place or in the process of being agreed for the recruitment of minority ethnic trainee POs. A disproportionately low number of Asian compared to African/African-Caribbean staff were employed by the service. The main concentration of staff was at an operational level, with a particularly high level of representation amongst hostel and research and information staff. Minority ethnic staff were under-represented at chief officer level and at other management grades. Despite the efforts of the Association of Chief Officers of Probation (ACOP) and the Central Probation Council (CPC), the number of minority ethnic representatives on probation committees had changed little since 1994 and remained extremely low.
- 2.18 Regional targets were set for the probation service in July 1999 for the recruitment, retention and career progression of minority ethnic staff over a 10 year period. Each service had to submit to the Home Office a revised policy, local targets and an action plan by mid-2000. Given the recent nature of the announcements, it was not surprising that only a few services had begun to consider their significance.
- 2.19 Although all services had job descriptions, not all had developed person specifications for each post. The services most successful in attracting applicants from minority ethnic groups had adopted a variety of measures to advertise vacancies. All services stated that shortlisting was undertaken consistently against job related criteria but the absence of person specifications for each post raised questions about the integrity of the process in some services. The selection of staff was based on standard employment practice, as described by ACAS, and was widely regarded as acceptable in promoting equality of opportunity. A formal interview remained the main method for the appointment of staff. Written tests and presentations were also used if appropriate to the post.
- 2.20 Many services had taken limited action to encourage those from minority ethnic groups to seek employment within the service but no specific targets had been set. It was disappointing that

the majority of services had not been more proactive, particularly those in rural areas.

### **Staff support and career progression**

- 2.21 The arrangements for induction varied across the services visited but all provided some form of induction for new staff. The first impression on joining the service for 83 per cent of minority ethnic staff responding to the staff circular was a positive one.
- 2.22 The work base of minority ethnic members of staff had received varying levels of attention by services. 24 per cent of staff completing the questionnaire circulated to minority ethnic staff felt isolated within their workplace. A number described the stress caused by the isolation. Where attention had been drawn to this fact, only a quarter felt that it had been fully resolved by management. Little apparent effort had been made by management to consider the potentially damaging effects on lone minority ethnic members of staff in teams, whether in rural areas or in particular locations such as prisons.
- 2.23 The probation circular which introduced a national system for performance appraisal in 1993 gave no explicit attention to the need to address the different requirements of minority ethnic staff. All services had either or both policy or practice guidelines relating to the supervision of staff and their appraisal. However, none made any explicit reference to the needs of minority ethnic staff.
- 2.24 It was a matter of serious concern to discover the inconsistent quality of supervision and the poor implementation of the appraisal scheme in the majority of the services visited. Feedback from the questionnaire revealed that appraisals often did not take place on an annual basis and that over 20 per cent said that they had never been appraised during their time in the service. 29 per cent of minority ethnic staff rated the quality of supervision that they received from their line manager as unsatisfactory or poor.. Although the failure to implement the system would have a negative impact on all staff, the lack of confidence expressed by many at their line manager's perceived lack of awareness and sensitivity to cultural difference, together with the absence of specific attention to these issues in the management standards for the service, would mean that staff from minority ethnic groups would be particularly disadvantaged.
- 2.25 Chief officers and probation committee members in all the services visited stated their active support and endorsement of

ABPO and NAAPS during the course of the inspection. Greater clarification was required about the level of support to staff to facilitate their attendance at both national and regional meetings to ensure consistency of provision. The existence, role and function of support groups for minority ethnic staff varied significantly between services. The position of staff in those services with few minority ethnic employees required special consideration.

- 2.26 All services visited had an annual training and staff development plan. A number of the plans referred to the provision of race equality training but only two services had followed the recommendation in the Macpherson report and committed themselves to additional training to promote race equality. Although staff at all levels emphasised the importance of training on race in relation to service delivery, little such training was available to date. None of the services visited had allowed for training for middle managers. A number of services provided access to external management courses. Two services had instigated specific measures to address the developmental needs of minority ethnic staff through the staff training plan.
- 2.27 Five of the 10 services visited had no managers from minority ethnic groups. 45 per cent of staff completing the questionnaire maintained that they had been encouraged to apply for promotion and had been offered help by the service in progressing their career, but it had clearly not proved sufficient to secure the promotion of minority ethnic staff in any numbers. Minority ethnic staff consistently remarked on their perception of being excluded from the informal networks to which they believed white staff had access. For minority ethnic staff who had applied unsuccessfully for advancement, the level and usefulness of the "feedback" offered varied considerably.
- 2.28 Although the current minority ethnic managers within the service described varying levels of support in their managerial roles, the vast majority considered themselves to enjoy positive relationships with their work colleagues at all levels. Of those who responded to the questionnaire, 85 per cent described their relationship with their line manager, and 89 per cent with white colleagues as good or excellent.
- 2.29 Little attention had been given to the needs of white managers in the supervision of staff from minority ethnic groups in the vast majority of the services visited. White managers in all services voiced their lack of confidence in managing minority ethnic staff. and it was apparent that many felt ill-equipped,



either by their training or the support offered by the service, to supervise minority ethnic staff effectively.

### **Discipline, grievance and complaint**

- 2.30 All services visited had established disciplinary procedures which followed the ACAS guidelines. Most were clear, specific and accessible to staff. However, only 11 per cent of staff who completed the questionnaire believed that the procedures were applied completely fairly in their service. All 10 had established grievance procedures for staff. In the main, these tended to be comprehensive documents which provided a step-by-step account for the management of a grievance. Each had either established separate policies/procedures or guidelines addressing racial harassment or made reference to it in their equal opportunities or anti-racism policy. The majority provided guidance to staff on a difficult issue in a sensible and sensitive way.
- 2.31 It was clear, however, that no common understanding existed across individual services about what constituted racist behaviour. Over half the staff who completed the questionnaire had experienced racist behaviour during the course of their work, 52 per cent from offenders and 57 per cent from colleagues or members of external organisations. Although three-quarters of those concerned had referred the matter to their line manager in both instances, only 33 per cent of staff reporting the behaviour of offenders were fully satisfied at the outcome and only 50 per cent reporting other members of staff. Of those completing the questionnaire, 25 per cent were unaware of the action open to them if they experienced racism within the workplace. A significant number of minority ethnic staff expressed little confidence in the application of the procedures, based on their lack of faith in the ability of some managers to deal effectively with allegations of racist behaviour, their fear of victimisation and the possible adverse consequences for their career.
- 2.32 Many white staff were apprehensive of being regarded as racist and said that they avoided both the subject and the issues. The climate in many teams made the informal resolution of complaints about language and behaviour difficult to achieve. Few staff expressed confidence in their ability to address racist behaviour amongst staff or to deal with allegations of racial harassment.

## Monitoring

- 2.33 Despite the apparent commitment of services to the principle of race and ethnic monitoring, the proportion of ethnic data missing had risen substantially from the mid-1990s. There were only three of the services visited where the proportion of race and ethnic monitoring returns missing had not risen above 5 per cent during the past two years. The performance of other services, which varied considerably, was of particular concern and required immediate action. Although the Home Office had written to individual services to raise concerns about poor completion rates, no action had been taken to address what was clearly a national issue.
- 2.34 Few of the services visited made any significant use of the information collated either with staff or to inform discussions with the probation committee or at senior management level. There was little evidence of the use of information on race and ethnic origin to inform work with offenders in the majority of the services visited. Only two services had undertaken comprehensive monitoring of service delivery by race and ethnic origin. In other services, information, even when available, did not appear to be collated in a way accessible to practitioners and used to inform practice. Only two services had either instigated training or issued guidance to staff on the completion of the race and ethnic monitoring forms. Another was preparing to do so. Under these circumstances, the poor response of staff in some services was not surprising but needed to be addressed. It was therefore difficult to see how the majority of services could monitor their performance, make any strategic decision on provision for minority ethnic offenders or promote race equality on the basis of the monitoring information currently available.

## The importance of leadership

- 2.35 The absence of a clear national direction had undoubtedly contributed to the low priority given to race equality by some probation services. The level of attention given to the promotion of race equality by CPOs and probation committees varied considerably. It was both surprising and disappointing to note the absence of any clear lead in some services visited, particularly those with few minority ethnic staff. All services have a responsibility to promote race equality. CPOs and probation committees have a crucial role in translating this responsibility into operational reality by identifying the approach to be adopted by the service, relevant to the local

situation, in order to ensure the effective supervision of all offenders.

- 2.36 The majority of services who had acted on the recommendations of the Macpherson report and the Home Secretary's Action Plan were still in an initial phase of identifying areas of work to be addressed. None of the services visited had translated the statements of intent, where made, into a strategic plan containing time-limited, measurable objectives. It was evident from discussions with minority ethnic staff in all services and from feedback from the questionnaire that the Macpherson report and the subsequent response by the Home Secretary had raised expectations of significant change in the culture, management and performance of the service.

### **Conclusion**

- 2.37 It was disappointing that despite the promise of the work undertaken in the 1980s and early 1990s, so little had been achieved. In many services, understanding of equal opportunities had not progressed beyond the level of "treating everyone alike". A number of isolated innovations were found, rather than a corporate approach to race equality. HMIP strongly believes that the promotion of race equality is synonymous with the development of good practice and contributes to the service fulfilling its core task of protecting the public. A specific agenda for action is set out in the recommendations below.

### **Recommendations**

#### ***The Home Office, probation committees and CPOs should:***

- 1. Provide clear direction and guidance to probation services in order to inform their development of equal opportunities and anti-racism policies. (Para 15.27)*

#### ***The Home Office should:***

- 2. Ensure appropriate minority representation on the new probation boards. (Para 10.46)*
- 3. In order to achieve improved consistency of approach:*
  - (a) further review the model framework for the recruitment and selection of trainee POs;*

- (b) *issue guidance to all services on the recruitment and selection of all grades of staff. (Para 10.46)*
- 4. *Review the appraisal framework and issue guidance to ensure that it addresses accountability, development needs and support for all staff. (Para 11.56)*
- 5. *Ensure that a separate complaints procedure is established so that any complaints made by probation service staff are given proper consideration. (Para 13.35)*
- 6. *Require probation services to meet set targets for the submission of race and ethnic data. (Para 14.24)*

**Probation committees and CPOs should:**

- 7. *Take action to improve the overall quality of PSRs on minority ethnic offenders by:*
  - (a) *setting an annual target for improvement from 2001;*
  - (b) *revising policy statements and practice guidance in respect of PSRs to take account of specific issues relating to minority ethnic offenders;*
  - (c) *collecting and using comprehensive monitoring data, including the race and ethnic background of offenders;*
  - (d) *ensuring that quality assurance measures address the particular circumstances of minority ethnic offenders. (Para 4.49)*
- 8. *Adopt the definition of a racist incident in the Macpherson report and produce revised policy and practice guidance to ensure the effective supervision of racially motivated offenders. (Para 7.32)*
- 9. *Demonstrate that, as part of service strategies to meet the different needs of minority ethnic offenders, the development of formal and informal partnerships has been informed by the advice and expertise of local community groups. (Para 8.22)*
- 10. *Ensure that, in order to promote race equality:*
  - (a) *all existing equal opportunities and anti-racism policies are reviewed, and amended as appropriate, to ensure that they cover the full range of employment practices and work with offenders;*

- (b) action plans are produced which include specific measurable objectives to support the implementation of the policies;
  - (c) equal opportunities policies, anti-racism policies and related action plans are monitored and reviewed annually by the probation committee. (Para 9.38)
- 11. Develop workforce planning strategies from April 2001 to meet set targets for the recruitment of minority ethnic staff and implement positive action measures to address imbalances. (Para 10.46)
- 12. Ensure the inclusion of appropriate mandatory training for all staff to promote race equality in annual training and staff development plans from 2001 giving priority to:
  - (a) probation committee members;
  - (b) white managers supervising minority ethnic staff;
  - (c) minority ethnic managers;
  - (d) race equality training, including raising cultural awareness, and considering implications for specific aspects of service delivery or organisational practice;
  - (e) work with racist and racially motivated offenders. (Para 12.30)
- 13. Identify and implement positive action measures to increase the level of minority ethnic representation at middle and senior manager grades in order to achieve by 2002 the initial targets set by the Home Secretary. (Para 12.30)
- 14. Adopt the definitions of racist behaviour and institutionalised racism given in the Macpherson report as the basis for disciplinary and complaints procedures and ensure that the implications of this change are reflected in future policy and practice guidance. (Para 13.35)
- 15. Set targets in annual business plans from 2001 for the completion of 100 per cent of race and ethnic monitoring forms and implement specific measures to ensure their achievement. (Para 14.24)
- 16. Ensure monitoring systems are in place and information is collated which is used to inform and improve

employment practice and work with minority ethnic offenders. (Para 14.24)

**CPOs should:**

17. Ensure that in implementing and monitoring the revised national standards and local "What Works" strategies, they should make specific provision for effective work with minority ethnic offenders. (Para 5.50)
18. Undertake a review of CS policy and practice guidance and ensure that:
  - (a) CS assessments take account of the different needs of minority ethnic offenders;
  - (b) the potential for racist attitudes and behaviour is assessed as part of the CS risk assessment;
  - (c) decisions about the placement of minority ethnic offenders are based on risk assessment, identified needs, health and safety and individual skills;
  - (d) a range of placements are available to meet the different needs of minority ethnic offenders;
  - (e) information is collected on the ethnic origin of all beneficiaries and used to ensure that CS benefits all sections of the community. (Para 6.56)
19. Ensure that the needs of minority ethnic staff are taken into consideration in determining the work base and that appropriate support systems, including supervision, are operating effectively. (Para 11.56)

### 3. BACKGROUND AND CONTEXT

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#### A historical perspective

- 3.1 For many centuries, people with different histories, traditions and beliefs have come and settled in Britain. Some came as invaders, others peaceably seeking a new life. Many were escaping oppression. Some were brought against their will. Britain has always been an ethnically diverse society and has benefited as a nation from the richness of its mix of people. As seen from history, the process of assimilation has not always been an easy one.
- 3.2 The year 1981 was marked by the outbreak of public disorder in Britain, starting initially in Brixton but later spreading to Bristol, Liverpool, Manchester and Birmingham. In his report into the causes of the Brixton disorders,<sup>9</sup> Lord Scarman rejected the notion that institutionalised racism existed in Britain and concluded that *"the riots were essentially an outburst of anger and resentment by young black people against the police"* arising from a complex political, social and economic situation. Although many of the recommendations were directed at the police, the report also called for a coordinated approach to the problems of the inner cities with greater involvement of the community, as well as a "positive response" from government to tackling racial disadvantage and discrimination.
- 3.3 In accepting the report, William Whitelaw, the then Home Secretary, acknowledged that the government needed to take a lead against disadvantage. For the first time, ethnic monitoring was recognised as an important factor in addressing discrimination. As part of the government response, an earlier decision against the introduction of ethnic monitoring into the civil service was reversed and work was identified to consider the introduction of monitoring by local authorities.
- 3.4 The following years were characterised by extensive activity within probation services. Much positive work was undertaken, alongside other local agencies, in those areas in which the disturbances had occurred. The majority of services introduced anti-racism training. In 1983, the Central Council of Probation Committees (CCPC) published "Probation: A Multi-Cultural

<sup>9</sup> Home Office *The Brixton Disorders 10-12 April 1981* (November 1981). In the report, Lord Scarman defined institutionalised racism as to "knowingly, as a matter of course, discriminate(s) against black people".

Approach", followed in 1987 by "Black People and the Probation Service" which contained recommendations for action by probation committees. The National Association of Probation Officers (NAPO) established an Anti-Racist Monitoring Committee in 1986 and in 1987 issued a policy statement<sup>10</sup> on the recruitment, selection, training and employment of minority ethnic staff. A subsequent statement issued in 1989 outlined NAPO's commitment to oppose racism, both as a trade union and as part of its work within the criminal justice system. ACOP established an anti-racism committee and also produced a policy statement in 1989 which contained advice to CPOs on both service delivery and organisational matters.

- 3.5 In 1988, Probation Circular 75/88 "Probation Service Policies on Race" was issued by the Home Office to all services to assist in the development of policies. The circular contained a lengthy checklist which focused on the composition of probation committees, recruitment, employment, training, staff development and monitoring. A report was commissioned by ACOP<sup>11</sup> and published in 1990 which used the Home Office checklist to assess how far services had progressed in translating policy statements into reality. Although it was positive that 50 out of the 52 services had equal opportunities policies, and 39 had written policies specifically on race, the investigation found that only 10 services had produced codes of practice containing objectives capable of measurement.

### **The development of the Association of Black Probation Officers and the National Association of Asian Probation Staff**

- 3.6 The first person from a minority ethnic group, an African-Caribbean, was not appointed to the service until 1961 and the number of minority ethnic staff employed by the service remained low thereafter up to the late 1980s.<sup>12</sup> In the West Midlands, an association known as the Black Social Workers and Probation Officers group (BSWAPO) was formed by a number of minority ethnic staff in 1980 who began to meet together for mutual support outside of working hours. The formation of BSWAPO was not without controversy, as recollected by Basil Hylton,<sup>13</sup> one of the founders of ABPO and its first chair:

<sup>10</sup> National Association of Probation Officers *The Recruitment, Selection, Training and Employment of Black Staff: An Agenda for Action*. (1987).

<sup>11</sup> Association of Chief Officers of Probation: Holdaway and Allaker *Race Relations Policy in the Probation Service* (1990).

<sup>12</sup> In 1987, only 127 (1.9 per cent) POs were from minority ethnic groups.

<sup>13</sup> Basil Hylton in an article entitled "Black Professionals in Search of Race Identity" published in 1995 by Whiting & Birch Ltd in *Probation - Working for Justice* edited by David Ward and Malcolm Lacey.



*"Later, when it became known that a Black Social Workers and Probation Officers Group ... was meeting, objections against it were fairly hostile ... 'How could the service be expected to address adequately the issue of race if its black staff were meeting in secret?' one officer once rhetorically asked."*

- 3.7 ABPO developed from the BSWAPO group and held its first annual general meeting in February 1984. The aim of the association was twofold, namely the maintenance of a support network for minority ethnic staff and the promotion of appropriate service delivery to the minority ethnic community. Membership of ABPO included people of African, African-Caribbean and Asian descent.
- 3.8 In 1987 NAAAPS was established by a group of POs who challenged the notion that the term "Black" adequately represented an Asian perspective. NAAAPS aimed to promote an Asian perspective on professional issues and to encourage and maintain a support group for its members. Membership was open to all Asian staff.

#### **Development of policy in the 1990s**

- 3.9 The central thrust which had marked the 1980s was not evident during the next decade. Analysis of the Home Office three year plans, which aimed to provide probation services with a framework against which local plans could be developed and monitored, showed how the focus on minority ethnic issues diminished. The three year plan for 1993/96 emphasised the service's commitment to *"treating all people fairly, openly and with respect"* and included amongst its 11 goals the achievement of equality of opportunity throughout all aspects of the service's activity. In the 1995/98 plan, the number of goals were reduced to three to provide increased focus on the priorities set by the Home Secretary and the achievement of equality of opportunity was subsumed into the overarching goal of *"improving value for money and maintaining high standards of equity"*. Although the plan included a statement urging local services to do more to translate their equal opportunities statements into action, the only requirement placed on services in the action plan was to undertake an analysis of ethnic monitoring returns and respond to a checklist issued by HMIP regarding equality of opportunity for women. No such requirement was included in the subsequent three year plans for 1996/99 or 1997/00, neither of which made any significant reference to equal opportunities.

3.10 Lord Dholakia,<sup>14</sup> chair of the National Association for the Care and Resettlement of Offenders (NACRO) summarised the changes in public attitudes during the decade and the consequences as follows:

*"But somehow, the real impetus for change was lost; events of the early 1980s faded from memory; criminal justice faded from public view. Crime, however, and fear of crime, became a public preoccupation. Did this fear of crime help to demonise certain groups in the public mind? We are all familiar with the image of the uncontrollable pre-teens stealing car after car on deprived estates; we are familiar with the derogatory terminology of 'rat boys', the barely concealed message of 'bogus asylum seekers'. These messages help us to identify people to blame instead of making us look for solutions. ... It has taken the tragic death of a young man to shock the system into action."*

### **Relevant legislation**

3.11 Under the Race Relations Act 1976, racial discrimination by employers had become a civil matter and any individual who believed that they had been discriminated against, either directly or indirectly, was entitled to seek redress through an employment tribunal. The CRE<sup>15</sup> was set up under the Act with the duties of:

- *"working towards the elimination of racial discrimination*
- *promoting equality of opportunity and good relations between people of different racial groups*
- *keeping under review the working of the Act and, when required by the Secretary of State or when it otherwise thinks necessary, drawing up and submitting to the Secretary of State proposals for altering it."*

The CRE is the only body with statutory power to enforce the Act's requirements. Its work involves giving advice and assistance to people with complaints; conducting formal investigations of organisations where there was evidence of discrimination and issuing codes of practice and race equality standards.

3.12 During the 1990s three Acts passed by Parliament had a significant impact on the way race issues were addressed. The Criminal Justice Act 1991 strengthened the range and

<sup>14</sup> National Association for the Care and Resettlement of Offenders *Let's Get It Right - Race and Justice 2000* (June 1999).

<sup>15</sup> See the Commission for Racial Equality's Statement of Purpose.

effectiveness of the community penalties available and provided courts for the first time with a coherent legislative framework for sentencing which clearly linked the severity of the punishment to the seriousness of the offence. Section 95 of the Act required the Secretary of State each year to:

*"... publish such information as he considers expedient for the purpose of:*

- (a) enabling persons engaged in the administration of justice to become aware of the financial implications of their decisions; or*
- (b) facilitating the performance of such persons in their duty to avoid discrimination against any persons on the ground of race or sex or any other improper ground."*

Although no other reference was made in the Act to the "duty to avoid discrimination", the introduction of Section 95 was a significant milestone. The criminal justice system had not been covered by the requirements of the Race Relations Act 1976 and the Act recognised, for the first time in law, the obligation placed on people working in criminal justice agencies to avoid discrimination. It placed a requirement on the Secretary of State to establish a system of monitoring that identified imbalances and allowed for them to be addressed.

- 3.13 The Criminal Justice and Public Order Act of 1994 introduced a new criminal offence of intentional harassment which covered all forms of harassment, including those that occurred in the workplace. The Act also gave police the power of arrest in cases involving the publication of material with the intention of inciting racial hatred. However, an offence could only be established where there was an identifiable "victim" and the intent to cause alarm or distress could be demonstrated. Despite its commendable purpose, the Act has resulted in few prosecutions to date.
- 3.14 The Crime and Disorder Act 1998 defined the term "racial harassment" for the first time in law. It introduced new racially aggravated offences, in addition to the main existing offences of violence and harassment under the Offences against the Person Act 1861, the Criminal Damage Act 1971, the Public Order Act 1986 and the protection from Harassment Act 1997. For each of the new offences, courts were required to pass significantly higher sentences within the maximum available if the racial element was proved and to state openly their reasons for doing so.

### Introduction of race and ethnic monitoring

- 3.15 The importance of the introduction of race and ethnic monitoring in assessing the effectiveness of race policies had been recognised by the government in its response to Lord Scarman's report. Monitoring had first been introduced in probation services in 1990<sup>16</sup> but had been opposed by NAPO, supported by ABPO, on the grounds that the categories to be used were discriminatory. The widespread refusal to cooperate and the consequent incomplete data made the production of reliable statistics at a national level impossible.
- 3.16 Following an initiative by ABPO, discussions were reopened by the Home Office between the CCPC, ACOP, NAPO and ABPO with the close involvement of the CRE. Alongside the implementation of Section 95 of the Criminal Justice Act 1991, a new system of monitoring was agreed and implemented from 1 October 1992.<sup>17</sup> Classification was based on the separation of race and ethnic identity at the point of data collection and allowed for the subsequent translation of the data into the categorisation given by the 1991 Census groupings. As a result of the agreement reached, the probation service became the second criminal justice agency, after the prison service, to introduce race and ethnic monitoring.

### Race and sentencing

- 3.17 In 1992, a study undertaken by Roger Hood<sup>18</sup> into sentencing practice in selected Crown Courts in the West Midlands found significant variations in the sentences imposed on minority ethnic offenders compared with their white counterparts. Minority ethnic defendants were not only more likely to receive a custodial sentence, but the terms of imprisonment imposed were also found to be longer. The research considered factors which could have contributed to the higher rate of custody amongst minority ethnic defendants and found that a disproportionate number had been refused bail at an earlier hearing.
- 3.18 The research focused primarily on sentencing practice but it also had implications for probation services. It found that 42 per cent of the African/African-Caribbean and 43 per cent of the Asian defendants appeared before the court without a social inquiry report,<sup>19</sup> compared to 28 per cent of white offenders.

<sup>16</sup> Home Office Circular 71/1990.

<sup>17</sup> Home Office CPO 32/1992: *Race and Ethnic Monitoring*.

<sup>18</sup> Roger Hood *Race and Sentencing: A Study in the Crown Court Clarendon* (1992).

<sup>19</sup> Pre-sentence reports were introduced by the Criminal Justice Act 1991. Prior to the implementation of the Act, the probation service prepared

Although more minority ethnic than white defendants entered a not-guilty plea, a significantly higher proportion of African/African-Caribbean than white offenders who pleaded guilty to the offence had no report prepared. Differences were also found in the recommendations made to courts by POs. Only 9 and 16 per cent of reports written on Asian and African/African-Caribbean offenders respectively recommended probation as a possible disposal to the court, compared with 26 per cent of reports on white offenders.

### Introduction of national standards

- 3.19 National standards for the supervision of all offenders in the community were first introduced in 1992.<sup>20</sup> They were intended to strengthen the supervision of offenders in the community by promoting good practice and professional judgement within a framework of accountability. Extensive reference was made throughout to the importance of anti-discriminatory practice in work with offenders. The introduction to the standards stated:

*"Effective action to prevent discrimination (**anti-discriminatory practice**) requires significantly more than a willingness to accept all offenders equally or to invest an equal amount of time and effort in different cases. The origin, nature and extent of difference in circumstance and need must be properly understood and actively addressed by **all concerned** - for example by staff training, by monitoring and review and by making extra effort to understand and work most effectively with an offender from a different cultural background. This is in keeping with the duty not to discriminate confirmed by Section 95 of the Criminal Justice Act 1991, and is reinforced in context, in each of the standards. This is not simply a matter of fairness in what is provided to others: in the context of the firm requirements of the standards and the consequent risk of breach, effective anti-discriminatory practice is essential to avoid further disadvantaging those already most disillusioned and disadvantaged in society."*

- 3.20 The national standards were reviewed in 1994 and a revised version issued to all services in 1995.<sup>21</sup> The principal aim of the review was to "redress the balance in presenting supervision in the community as punishment for offenders"<sup>22</sup> and

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reports on offenders prior to sentence known as social inquiry reports to assist the court in determining the most appropriate penalty.

<sup>20</sup> Home Office, Department of Health and Welsh Office *National Standards for the Supervision of Offenders in the Community* (1992).

<sup>21</sup> *Ibid*, see footnote 5.

<sup>22</sup> Home Office *Annual Report* (1995).

the revision of the standards reflected the change in criminal justice policy evident in the mid 1990s. Although the 1995 standards included a reference to anti-discriminatory practice, it contrasted markedly with the extensive input in the earlier standards and consisted of a statement under the heading "Equal Opportunities" contained in the introduction:

*"In keeping with the duty not to discriminate referred to in Section 95 of the Criminal Justice Act 1991, the work of the probation service, social services departments and all those with whom they work in partnership, should be free of discrimination on the ground of race, gender, age, disability, language ability, literacy, religion, sexual orientation or any other improper ground."*

- 3.21 Apart from this endorsement, the 1995 standards made few explicit references to the importance of anti-discriminatory practice or the need to consider the different requirements of minority ethnic offenders in their effective supervision. The Home Office's failure to promote race equality clearly within the standards was a disappointing omission.

### **The Criminal Justice Consultative Council**

- 3.22 The Criminal Justice Consultative Council (CJCC) was established in response to the findings of the report into the HM Prison Manchester disturbance in 1990. In the report,<sup>23</sup> Lord Justice Woolf identified the need for a coordinating structure for criminal justice agencies. The CJCC consists of representatives of all criminal justice organisations and is supported by 23 Area Criminal Justice Liaison Committees (ACJLC), each chaired by a judge with regional representation of all criminal justice organisations.
- 3.23 Race was one of the first topics considered by the CJCC.<sup>24</sup> A sub-group on race issues was established chaired by Her Honour Judge Elizabeth Fisher and, in 1994, produced a detailed report containing 50 recommendations directed at all criminal justice organisations. The recommendations directly relevant to the probation service covered race and ethnic monitoring, PSRs, bail hostels and CS. These recommendations were to be taken forward by the local ACJLCs.

<sup>23</sup> HM Stationery Office *Prison Disturbances April 1990* - Report of an inquiry by the Rt Hon Lord Justice Woolf Parts 1, 2 & 3 and His Rt Hon Judge Stephen Tumin Part 2 (February 1991).

<sup>24</sup> Criminal Justice Consultative Council *Race and the Criminal Justice System* (1994).

- 3.24 The sub-group was reconvened in April 1999 at the instigation of the chair, Lord Justice Rose, with the full support of the Council. The terms of reference included following up the recommendations of the 1994 report, the recruitment, retention and promotion of minority ethnic people, training, the effectiveness of reports made on race under Section 95 of the Criminal Justice Act 1991, consideration of issues referred by the Race Relations Forum and the adoption of best practice by area committees and the Council. The reconvened sub-group was scheduled to report in the spring of 2000.

### **The development of multi-agency responses to racial attacks and harassment**

- 3.25 In 1989, the Racial Attacks Group, established by the Home Office, published its first report<sup>25</sup> recommending the formation of multi-agency panels as a response to the problems of racial attack and harassment. The group monitored the formation of these panels and in 1996 produced a further report<sup>26</sup> containing recommendations directed at all local agencies together with advice on multi-agency working. The report strongly recommended that probation services should be represented on all panels at both operational and strategic level where such tiers existed and that work should be undertaken to encourage the collation and sharing of relevant information. The work of the group was complimented in some areas by the development of crime prevention initiatives undertaken as part of the "Safer Cities" programme established in 1988.
- 3.26 The Crime and Disorder Act 1998 gave additional impetus to the development of local initiatives to address racial harassment by placing a legal duty on the local authority and police to work in partnership with other agencies, including probation services, in the development of community safety strategies. Under the Act, each local authority was required to undertake a crime audit and initiate an appropriate response, incorporating the police crime reduction strategy.

### **Current position**

- 3.27 Following the general election of May 1997 and the consequent change in administration, the Home Secretary introduced a statement of purpose for the Home Office:

<sup>25</sup> Home Office *The Response to Racial Attacks and Harassment* (1992).

<sup>26</sup> Home Office *Taking Steps* (1996).

*"to build a safe, just and tolerant society in which the rights and responsibilities of individuals, families and communities are properly balanced and the protection and security of the public are maintained."*

3.28 The statement of purpose was supported by seven Aims and targets were set to increase the number of minority ethnic people employed by the Home Office and its services. The statement reflected the priority of the government to ensure that the principle of fair treatment was central to the administration of justice. The government's commitment in this regard was further demonstrated by the Human Rights Act 1998 which allowed access to the rights established under the European Convention on Human Rights through the British courts. In March 1999, the government published strategic and business plans,<sup>27</sup> for the criminal justice system which established, for the first time, overarching aims to:

- reduce crime and the fear of crime and their social and economic costs
- dispense justice fairly and to promote confidence in the rule of law.

3.29 Following the publication of the Macpherson report and the Home Secretary's Action Plan, new objectives were established for the probation service which were circulated to CPOs and probation committee secretaries in January 2000.<sup>28</sup> In the foreword to the circular highlighting the key points and changes, the Home Secretary drew attention to the importance attached to race equality, both in terms of how the service treated its own staff and its work with offenders. In meeting the objectives, probation services were required to:

*"proceed on the understanding that 'fairness' includes implementing the report 'Race Equality - Developing Minority Ethnic Representation in Probation Services' to achieve the Home Secretary's targets for minority ethnic recruitment, retention and progression amongst probation service staff; and also ensuring that work with all offenders, irrespective of ethnic origin, is free from discrimination."*

However, in the priorities identified for the service, it was surprising that no explicit mention was made of work with minority ethnic or racially motivated offenders.

3.30 The national standards for the service were again revised and issued for implementation from 1 April 2000. Although equality

<sup>27</sup> Home Office *Criminal Justice System - Strategic Plan 1999/00 and Business Plan 1999/00* (March 1999).

<sup>28</sup> Home Office *Probation Circular 3/2000 Probation Service Objectives and the Home Secretary's Priorities and Action Plans for the Service 2000/01*.



of opportunity was not addressed at the same level as the 1992 version, the new standards made more extensive reference than in 1995 to the need to consider the different cultural and religious requirements of minority ethnic offenders and to challenge the attitudes and behaviour of racist offenders.

3.31 In March 2000, the government announced the development of a race equality performance management system<sup>29</sup> for public sector organisations, *"to establish how much has been done to achieve real race equality for ethnic minorities; where action is needed most urgently to improve race equality; and where race equality appears to have been achieved."* The performance management system was based on a number of key indicators which encompassed attitudinal data illustrating the different perceptions of public services in white and minority ethnic communities, statistical information, a range of key policy activities including law and order, and information about how the government itself was aiming to improve race equality within the Civil Service.

3.32 The Race Relations (Amendment) Bill, which will become law in the summer of 2000, has been heralded as one of the most significant pieces of legislation since the introduction of Section 95 through the Criminal Justice Act 1991. It will extend the Race Relations Act 1976 to all public functions not previously covered including law and order and, as such, will have direct implication for probation services. It will also place a positive duty on public bodies to promote race equality. It covers both direct and indirect discrimination and therefore requires all public bodies to examine the outcomes of their policies and practices and to identify and change those that are discriminatory.

3.33 The initial response to the Macpherson report has been positive, although much remains to be achieved. However, led by government, there now appears to be a real impetus for change. Ambalavaner Sivanandan, Director of the Institute of Race Relations, writing in the Guardian<sup>30</sup> almost a year after the publication of the report stated:

*"But now Macpherson has put anti-racism back on the agenda - and in the year since the report there has been a flurry of activity on tackling racism. Sadly, though, most organisations keep falling back on old palliatives as an off-the-peg blueprint for every problem and every occasion.*

*The point, however, is not to look to Macpherson for a solution. It is enough that it has put institutional racism on the map and drawn attention to its prevalence in society. The*

<sup>29</sup> Home Office *Race Equality in Public Services* (March 2000).

<sup>30</sup> *The Guardian* (Monday 21 February 2000).

*challenge for such organisations, then, is to examine their particular roles, the context in which they work and the way in which racism has developed in their fields. Racism has become ingrained in different ways in different institutions - and has therefore to be fought specifically, in terms of the specific policies, practices and procedures of a specific institution."*



## 4. PRE-SENTENCE REPORTS

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- 4.1 This chapter considers PSR policy and practice guidelines and examines the quality of such reports written on offenders from minority ethnic groups.

### National standards

- 4.2 The 1995 standards included a statement in the introductory chapter under the heading "Equal Opportunities" on the importance of the work of the probation service being free from discrimination, in keeping with the duty imposed by Section 95 of the Criminal Justice Act 1991.<sup>31</sup> However, no explicit indication was given how this statement should be translated into practice in the preparation of PSRs other than the reference to the use of an accredited interpreter "*where language difficulties impair effective communication with the offender.*"

### Relevant research findings

- 4.3 A study on minority ethnic offenders<sup>32</sup> in 1992 appearing before the Crown Court had highlighted concerns about the significant number of reports written on this group of offenders where a probation order had not been proposed. It also revealed that a disproportionately high number had previously been remanded in custody. The research findings were considered by the race issues sub-group established by the CJCC<sup>33</sup> who recommended that:

*"... All probation areas should ensure that reports produced for court are monitored for any irrelevant references to race. Chief Probation Officers should also scrutinise reports to ensure that, where appropriate, proposals are included for the court to consider. Some research evidence suggests that reports on black offenders are less likely to include specific recommendations."*

- 4.4 In 1995, ACOP and HMIP jointly established a PSR quality improvement programme. Surveys were subsequently undertaken in 1995, 1997 and 1999 on samples of PSRs. Despite the requirement

<sup>31</sup> See paragraph 3.12 of this report.

<sup>32</sup> See paragraphs 3.17 and 3.18 of this report.

<sup>33</sup> Ibid, see footnote 24.

to collect data on ethnic origin from the PSR stage,<sup>34</sup> many services were not doing so. It was therefore difficult for consideration to be given to specific issues relating to reports prepared on different ethnic groups.

### Service policies

4.5 The audit showed that 48 of the 52 services who responded to the question (92 per cent) had developed either a policy or practice guidelines relating to PSRs. Only 24 indicated that these contained specific reference to minority ethnic offenders. Of the services visited, only Cheshire, Merseyside and Inner London commented on minority ethnic offenders in their PSR policy.

4.6 Comprehensive PSR guidance was produced by Inner London in May 1999. The section entitled "Equity" included the following advice:

*"In the process of the PSR interview:*

- *asking probing and challenging questions*
- *being sensitive to the way in which questioning may be perceived by the defendant.*

*In the writing of the report:*

- *that when acknowledging difference, this is done in a way which is racially and culturally sensitive, and portrays difference in a way which indicates respect for such difference*
- *not perpetuating stereotypes, or using language which may perpetuate stereotypes, either positive or negative*
- *not using language which 'distances' the PSR writer from the defendant, thereby reducing the credibility of the report e.g. 'he/she tells me'*
- *careful use of reported speech. Quotations from the defendant or others can result in discriminatory statements being legitimised and are no substitute for a professional assessment by the PSR writer. They should be used rarely, when the purpose has been thought through."*

<sup>34</sup> Home Office CPO 79/1992 *Race and Ethnic Monitoring* which introduced ethnic monitoring "as an integral part of the PSR information gathering process" from 1 January 1993.

## The quality of work

4.7 A sample of 484 PSRs was read from the 10 services visited (see Appendices 3 and 4). The ACOP/HMIP quality assurance form was used but amended to reflect the different requirements of minority ethnic offenders and an additional section on racist incidents was added. The sample included white offenders to allow comparison between reports prepared on minority ethnic offenders and white offenders and to consider how services addressed racist attitudes and behaviour. Full information, including data on race and ethnic origin, was not available for all reports mainly because of incomplete recording by the services. Of the sample:

- 181 (37 per cent) were white, 177 (37 per cent) African/African-Caribbean, 47 (10 per cent) Asian and 65 (13 per cent) were recorded as "other"<sup>35</sup>
- 25 (5 per cent) of the PSRs had been prepared for the youth court, 335 (69 per cent) for the magistrates' court and 116 (24 per cent) for the Crown Court. The proportion of PSRs prepared for the magistrates' courts was significantly higher for white offenders than for African/African-Caribbean or Asian offenders
- a significantly higher proportion of African/African-Caribbean offenders than white offenders were remanded in custody (28 per cent compared to 16 per cent)
- a significantly higher proportion of Asian offenders and those recorded as "other" had been convicted of offences which were considered "more serious" than white offenders (30 per cent and 32 per cent compared to 15 per cent)
- prosecution papers were available in 70 per cent of white cases, 67 per cent of African/African-Caribbean cases, 76 per cent of Asian cases and in 83 per cent were recorded as "other"
- 88 per cent were males
- explicit reference was made to the use of an interpreter in five cases.

4.8 Table 1 shows the proportion of reports considered which had been prepared on offenders who had been remanded in custody during the PSR preparation period.

<sup>35</sup> A number of these were cases where the service's recording of the race and ethnic origin coding, arising from the offender's self-assessment, was incomplete.

Table 1: Use of custodial remand by race and ethnic origin\* (Source: HMIP file reading exercise)

Remands to custody	White	African/African-Caribbean	Asian	"Other"
Avon	3 of 15	9 of 22	0 of 2	1 of 4
Cheshire	3 of 20	7 of 21	2 of 5	2 of 7
Cornwall	2 of 20	1 of 4	1 of 4	0 of 12
South Glamorgan	3 of 18	0 of 16	0 of 4	2 of 4
Inner London	1 of 20	7 of 22	3 of 5	0 of 2
South East London	3 of 13	7 of 16	0 of 2	1 of 9
Merseyside	4 of 20	10 of 29	0 of 1	0 of 0
Nottinghamshire	6 of 18	4 of 22	0 of 1	7 of 13
West Midlands	2 of 19	4 of 15	2 of 13	0 of 0
West Sussex	2 of 15	0 of 9	2 of 10	1 of 14

\* Some discrepancies in the number of cases have occurred either because the relevant information was not available or due to inconsistent recording by the file reader.

#### **Commentary:**

- Overall, 28 per cent of African/African-Caribbean offenders had been remanded in custody compared to 16 per cent of white offenders.<sup>36</sup>
- In Avon, Cheshire, Inner London, South East London and Merseyside the proportion of African/African-Caribbean offenders remanded in custody was noticeably higher than for white offenders.

4.9 The significantly greater use of custodial remands may be explained in Inner London and Merseyside by the higher proportion of African/African-Caribbean offenders convicted of serious offences. The findings would appear to confirm research undertaken in 1992 which showed a disproportionate use of custodial remands for African/African-Caribbean offenders appearing before certain Crown Courts.<sup>37</sup> The findings suggest the need for all services to review the operation and targeting of bail information schemes to assist courts in ensuring equality of approach.

#### **The pre-sentence report introduction**

4.10 The national standard 1995 stated that:

<sup>36</sup> Unless indicated otherwise, the report only comments on differences in proportions between ethnic groups which are statistically significant and so unlikely to have arisen by chance. In many instances, it was not possible to form a firm conclusion in relation to Asian offenders due to the low number included in the sample.

<sup>37</sup> See paragraphs 3.17 and 3.18 of this report.

"The introduction should include a **summary of the sources** drawn to prepare the report." (para. 2.11)

4.11 The majority of reports identified sources of information although the proportion that did so was significantly higher for white, Asian and "other" offenders than for African/African-Caribbean offenders. One service, Cornwall, had clearly taken steps to address these issues by the development of a standard format.

### Offence analysis

4.12 The national standard 1995 (para 2.12-2.16) stated that the primary aim of the offence analysis was to highlight key features of the offence(s) and its circumstances (without restating all the evidence already before the court) in order to assist the court's understanding of why the offender committed the offence at this time.

4.13 Table 2 examines the different aspects of the offence analysis and shows the proportion of PSRs in which a satisfactory assessment was considered to have been made.

Table 2: Aspects of offence analysis by race and ethnic origin (Source: HMIP file reading exercise)

Satisfactory assessment of:	Overall	White	African/African-Caribbean	Asian	"Other"
Context of the offence	69%	77%	64%	70%	63%
Offender's culpability and premeditation	54%	61%	48%	59%	49%
Attitude to victim and offence	43%	49%	39%	38%	51%
Consequences of offence	33%	38%	28%	29%	40%

#### Commentary:

- The proportion of PSRs in which an adequate assessment was made of the context of the offence was significantly higher for white offenders than for African/African-Caribbean offenders and those recorded as "other."
- A significantly higher proportion of reports written on white than on African/African-Caribbean offenders gave adequate consideration to the offender's culpability or degree of premeditation.

4.14 Overall, the quality of the offence analysis left much to be desired with only 63 per cent considered to be satisfactory or better. Despite examples of good practice, examination of the offence analysis revealed that those written on



African/African-Caribbean offenders in particular were more likely to consist of reiteration of the offender's account of the offence and information already available to the court rather than an informed analysis when compared to those written on white offenders. File readers perceived the failure to address these issues adequately to be a key weakness in the offence analyses undertaken on minority ethnic offenders. The difference cannot be explained by the absence of prosecution papers, as the proportion of cases in which such information was available was similar for both white and African/African-Caribbean offenders, although disturbingly low in both cases.

4.15 More detailed examination revealed noticeable differences in performance between services. The reasons for the variations between ethnic groups were not, however, apparent and required greater exploration by the services concerned:

- an adequate assessment was made of the offender's attitude to the victim or the offence in seven out of 21 PSRs in Avon and in 10 out of 17 PSRs in South Glamorgan written on African/African-Caribbean offenders, compared with two out of 15 and seven out of 18 written on white offenders respectively
- conversely, PSRs prepared in Inner London, Merseyside and West Midlands were more likely to consider the attitudes of white offenders to their victim and the offence than African/African-Caribbean offenders. In Inner London, 11 out of 20 PSRs written on white offenders compared to only two out of 21 written on African/African-Caribbean offenders included an adequate assessment of the offender's attitude to the victim and the offence and in West Midlands 10 out of 19 PSRs written on white offenders compared with four out of 15 written on African/African-Caribbean offenders
- in Cheshire, the offence analysis was considered satisfactory or better in nine out of 21 PSRs prepared on white offenders, compared to six out of 21 PSRs prepared on African/African-Caribbean offenders
- in Inner London, the offence analysis was considered satisfactory or better in 16 out of 19 PSRs prepared on white offenders, compared to 12 out of 22 PSRs prepared on African/African-Caribbean offenders
- in contrast, in Cornwall, the offence analysis was consistently high across all groups and was assessed as satisfactory or better in 40 out of the 41 PSRs considered.

## Relevant information about the offender

4.16 The national standard 1995 (paras 2.17-2.22) stated that the aim of this section of the report was to give a concise account of the offender's personal and social circumstances to assist the court when sentencing. The report should consider:

- information relevant to the offence or pattern of offending
- the likelihood of further offending
- the offender's capacity or motivation to change.

4.17 Some differences were revealed between ethnic groups in the evaluation of offending patterns and unrelated material:

- 71 per cent of PSRs prepared on white offenders contained information about the offender which was considered to have enhanced understanding of the present offence and previous offending behaviour, compared to 57 per cent prepared on African/African-Caribbean offenders
- 87 per cent of the reports prepared on white offenders avoided emphasis on unrelated material, compared to 73 per cent prepared on African/African-Caribbean offenders.

However, there were no significant differences between ethnic groups in the extent to which the PSR referred to any previous convictions, or the outcome of previous community sentences or other disposals.

4.18 Table 3 details findings regarding relevant information about the offender.

Table 3: Relevant Information about the offender (Source: HMIP file reading exercise)

PSR adequately includes details of	Overall	White	African/African-Caribbean	Asian	"Other"
Relevant social circumstances	74%	78%	69%	81%	75%
Relevant financial information	61%	69%	56%	56%	62%
Religion and cultural background	12%	2%	14%	34%	17%

### Commentary:

- The coverage of the offender's social circumstances was considered balanced, succinct and relevant in a higher proportion of reports written on white than on African/African-Caribbean offenders.

- It was surprising that only 56 per cent of PSRs written on African/African-Caribbean and on Asian offenders contained relevant financial information, compared to 69 per cent written on white offenders.
- Sixteen out of 48 PSRs written on Asian offenders compared to four out of 178 on white offenders, 25 out of 176 on African/African-Caribbean offenders and 12 out of 64 on "other" offenders made reference to the offender's religious or cultural background. Of the 57 reports which made such a reference, Cornwall accounted for 11 and West Sussex for 10.

4.19 The findings in table 3 provide evidence of the difficulties acknowledged by many POs in writing PSRs on minority ethnic offenders. Only 12 per cent commented on the offender's religious or cultural background, of which PSRs on Asian offenders formed the most significant proportion. The reference was not, however, considered relevant in almost half of the reports. Of the 11 PSRs prepared by Cornwall which commented on the offender's cultural and religious background, the reference was considered to have enhanced the quality of the report in seven cases. The majority of the reports prepared by Cornwall gave detailed information in a clear and accessible manner and, where relevant, outlined the different experiences of minority ethnic offenders in a matter-of-fact way which enhanced understanding. The uncertainty expressed by some report writers in other services in discussing cultural and religious difference spoke of the need for specific training to address the different needs of minority ethnic offenders in reports.

4.20 The overall assessment of the quality of this section in all PSRs revealed that 71 per cent were considered satisfactory or better, with only limited differences between ethnic groups. Detailed analysis of the performance of individual services showed that Avon and Inner London were the only services of those visited to show any noticeable variation:

- in Avon, the section on relevant information on the offender was considered satisfactory or better in 12 out of 16 PSRs prepared on white offenders, compared to 11 out of 22 prepared on African/African-Caribbean offenders
- in Inner London, the section on relevant information on the offender was considered satisfactory or better in 19 out of 20 PSRs prepared on white offenders, compared to 14 out of 22 prepared on African/African-Caribbean offenders.

## Risk to the public

4.21 The national standard 1995 stated:

*"The aim of this section of the report is to distil the analysis of the previous section into a concise statement of the report writer's professional judgement of the risk of reoffending and the risk of harm to the public which the offender who is the subject of the report now poses."* (para 2.23)

4.22 The findings on risk assessment were disappointing:

- only 77 per cent of all PSRs contained an adequate assessment of the risk of the offender reoffending and only 43 per cent an adequate assessment of the risk of harm to the public. There was, though, no significant variation in the results between ethnic groups
- where risk of reoffending or harm to the public had been identified, 52 per cent of PSRs written on white offenders and 70 per cent on Asian offenders contained information about how the risk of both reoffending and harm to the public could be managed, compared to 38 per cent on African/African-Caribbean-offenders. The reports prepared by South Glamorgan, Nottinghamshire and West Midlands raised particular concerns in this regard.

4.23 The failure to comment on the management of risk, where relevant, in the majority of the PSRs prepared on African/African-Caribbean offenders was of major concern. The management of risk forms an essential component in work to challenge offending behaviour, and the work undertaken at the PSR stage contributes not only to the proposal contained in the report but also, if a community sentence is imposed, to the initial assessment of the offender. As a matter of urgency work needs to be undertaken by all services to address this issue.

4.24 Detailed analysis of the performance of individual services with regard to risk assessments in PSRs showed some noticeable variations which require further examination:

- in Avon, the quality of the risk assessment was considered satisfactory or better in 13 out of 22 PSRs prepared on African/African-Caribbean offenders, compared to six out of 16 prepared on white offenders
- in West Midlands, the quality of the risk assessment was considered satisfactory or better in 12 out of 19 PSRs prepared on white offenders, compared to five out of 15 prepared on African/African-Caribbean offenders.

## Pre-sentence report conclusions

4.25 The national standard 1995 stated that:

*"The conclusion should flow logically and directly from the rest of the report. It should reflect the preceding assessments of the nature and context of the offence, the offender's personal circumstances and any potential risk to the public.*

*Unless the court has specifically asked for the report to consider a number of options, any proposal should be for a single specific sentence."* (paras 2.25 and 2.27)

4.26 Details of the proposals in PSRs by race and ethnic origin are contained in table 4.

Table 4: Proposals in PSRs by race and ethnic origin\* (Source: HMIP file reading exercise)

	Overall	White	African/African-Caribbean	Asian	"Other"
Probation order	24%	26%	22%	28%	20%
Probation orders with requirements	13%	19%	9%	11%	11%
CS	22%	16%	22%	23%	33%
Combination order	9%	9%	12%	6%	2%
Custody	8%	4%	11%	6%	12%
Other	14%	11%	14%	19%	17%
No proposal	10%	13%	11%	6%	5%

\* The percentages have been rounded up or down so they do not add up to 100 per cent.

### Commentary:

- The proportion of reports containing a clear proposal for a probation order without requirements or for a combination order was consistent across all ethnic groups.
- A significantly higher proportion of PSRs written on white offenders contained a proposal for a probation order with requirements than on African/African-Caribbean offenders.
- A significantly higher proportion of PSRs written on offenders recorded as "other" contained a proposal for CS than on white offenders.
- A significantly higher proportion of PSRs written on African/African-Caribbean offenders and on offenders recorded as "other" contained either a clear proposal for custody or acknowledgement that custody was a likely option than on white offenders.

- The significant variations between ethnic groups in the rate of proposals for community sentences showed a disappointingly similar pattern of proposals to those identified in the research undertaken in 1992.<sup>38</sup>

4.27 Where no suggestion for sentence was made, file readers considered that a community sentence could have been proposed in over half the PSRs written on African/African-Caribbean offenders and in 70 per cent of those on white offenders. Where custody was intimated as the likely option, the expected adverse affects were identified in 54 per cent of reports written on African/African-Caribbean offenders compared with 63 per cent on white offenders and 87 per cent of Asian offenders. These variations were a matter of concern and required further exploration by services.

4.28 In 69 per cent of cases the body of the PSR led logically to the conclusion and in 54 per cent of cases the conclusion was convincing. There were no significant variations between ethnic groups. However, considerable differences were found in performance between services in relation to proposals for community sentences:

- none of the 17 PSRs prepared on African/African-Caribbean offenders by South Glamorgan contained a proposal for a probation order, either with or without additional requirements, compared to four out of 18 written on white offenders
- in contrast in Inner London, nine of the 22 PSRs prepared on African/African-Caribbean offenders contained a proposal for a probation order, with or without additional requirements, compared to five of 20 written on white offenders
- a proposal for CS was noticeably higher for African/African-Caribbean offenders than white offenders in Avon, South East London, Merseyside and Nottinghamshire
- in Cheshire, five of the 21 PSRs and in Merseyside seven of the 29 prepared on African/African-Caribbean offenders contained a proposal for a combination order, compared to one of 21 and one of 20 written on white offenders respectively.

4.29 Overall, only 64 per cent of the conclusions were considered to be of a satisfactory quality or better. Although the sample showed no significant difference across the 10 services between ethnic groups regarding the quality of the conclusion, detailed analysis of the performance of individual services showed that

<sup>38</sup> See paragraphs 3.17-3.18 and 4.3 of this report.

in Inner London only 13 of 22 on African/African-Caribbean offenders were considered satisfactory or better, compared to 17 of 20 written on white offenders. This worrying variation was not found in other services.

### Language and presentation of reports

4.30 In assessing the language and presentation of the report, consideration was given to the overall tenor of the report, as well as the use of words and stereotypical beliefs. Table 5 shows the overall assessment of the quality of language and presentation.

Table 5: Quality of language and presentation (Source: HMIP file reading exercise)

	Overall	White	African/African-Caribbean	Asian	"Other"
Excellent	2%	2%	2%	2%	2%
Satisfactory/good enough	70%	78%	57%	78%	71%
Not satisfactory/good enough	26%	18%	39%	17%	28%
Very poor	1%	2%	1%	2%	0%

#### Commentary:

- 93 per cent of the reports examined were found to be free from discriminatory language and assumptions.
- The proportion of reports where the quality of language and presentation was considered satisfactory or better was significantly higher for white and Asian offenders than for African/African-Caribbean offenders.
- 16 per cent of those written on African/African-Caribbean offenders and 11 per cent on Asian offenders were considered to reinforce stereotypical attitudes about race and ethnic origin.

4.31 Noticeable variations were found in the use of language between services. For example, the proportion of reports where it was considered satisfactory or better was noticeably higher for white offenders than for African/African-Caribbean offenders in Cheshire, South Glamorgan, Inner London, Nottinghamshire, West Midlands and West Sussex.

4.32 Although the majority of the reports were found to be free from discriminatory language, there was a failure in some cases to demonstrate explicitly the relevance of the information contained in the report to the offence. A quarter of the reports written on African/African-Caribbean and Asian offenders contained background information that was irrelevant,

but almost half failed to include the information necessary to understand the present and previous offending. Examples included the depictions which, whilst factually accurate, created a racial stereotype, such as describing an Asian offender as working in "a local corner shop." Report writers need to be aware that the use of certain words and phrases, which in themselves may be neutral, can evoke racial stereotypes when applied to someone from a minority ethnic group.

4.33 The practice guidelines drawn up by Inner London commented:

*"It is important to note that good anti-discriminatory practice is not achieved by ignoring a person's race/gender/ethnicity, etc. but by using the information in a positive, relevant and sensitive way."*

4.34 In addition to questions about language and presentation, file readers were asked if it would have been possible to determine whether the offender was from an ethnic minority group by reading the report. Analysis of the sample showed that only 23 per cent of African/African-Caribbean offenders but 46 per cent of Asian offenders could be so identified. Discussions with staff indicated that some equated equal opportunities with treating everyone alike, whereas others, often because of their own uncertainties, avoided the issue to the detriment of the offender. Other report writers were clearly able to acknowledge difference in a culturally sensitive way and use relevant information about the offender's background and experience to enhance the report. These reports had a credibility and strength that others lacked.

### Overall assessment

4.35 The proportion of PSRs written on white offenders considered satisfactory or better was significantly higher than those on African/African-Caribbean offenders. Overall, only 57 per cent were considered satisfactory or better. The figures for each ethnic group were:

- 60 per cent for white offenders
- 49 per cent for African/African-Caribbean offenders
- 63 per cent for Asian offenders
- 59 per cent for offenders recorded as "other".

4.36 Details of the performance of individual services are given in table 6.



Table 6: Overall assessment of quality - proportion of PSRs considered satisfactory or better\* (Source: HMIP file reading exercise)

PSRs assessed as satisfactory	White	African/African-Caribbean	Asian	"Other"
Avon	33% 5 of 15	36% 8 of 22	50% 1 of 2	75% 3 of 4
Cheshire	60% 12 of 20	38% 8 of 21	40% 2 of 5	28% 2 of 7
Cornwall	80% 16 of 20	75% 3 of 4	50% 2 of 4	75% 9 of 12
South Glamorgan	44% 8 of 18	47% 8 of 17	80% 4 of 5	50% 2 of 4
Inner London	83% 15 of 18	54% 12 of 22	100% 5 of 5	50% 1 of 2
South East London	50% 7 of 14	40% 6 of 15	50% 1 of 2	50% 4 of 8
Merseyside	53% 10 of 19	79% 19 of 24	0% 0 of 1	0% 0 of 0
Nottinghamshire	67% 12 of 18	50% 11 of 22	0% 0 of 1	75% 8 of 12
West Midlands	63% 10 of 16	25% 3 of 12	67% 6 of 9	0% 0 of 0
West Sussex	67% 10 of 15	55% 5 of 9	70% 7 of 10	57% 8 of 14

\* The percentages are shown for ease of reference but it should be borne in mind that the figures are small.

#### **Commentary:**

- The proportion of reports considered satisfactory or better was considerably higher for white than for African/African-Caribbean offenders in Cheshire, Inner London and West Midlands.
- The excellent guidelines produced by Inner London were not operational at the time the majority of PSRs considered were prepared. The importance of their implementation is demonstrated by the above findings.
- The PSRs prepared by Cornwall, which were written by a small group of highly experienced staff, were considered to be of a consistently higher standard than the other services visited.
- Merseyside was the only service where the quality of the reports written on African/African-Caribbean offenders was noticeably higher than those on white offenders. The service was the only one of those visited in which the PSR policy stated that all PSRs written on minority ethnic offenders should be subject to the quality assurance process.

4.37 Despite some examples of good practice, examination revealed a significantly higher quality of reports overall on white than on minority ethnic offenders. These worrying findings, particularly in relation to the management of risk, have

implications for the effective supervision of the offender. The assessment undertaken at the PSR stage should inform not only the proposal in the report but also, if a community sentence is imposed, the offender's supervision.

### Quality control arrangements

- 4.38 With the exception of Avon and South Glamorgan, whose procedures were in abeyance, all services had PSR quality assurance measures. In Merseyside, new arrangements for the quality control of PSRs had been introduced into the service in 1998 and included the development of a form based on that used in the ACOP/HMIP surveys. One section of the form was headed "Anti-Discrimination" and consisted of the question "*Is the report free from stereotyping and are any references to race, gender, physical ability or culture, relevant and appropriate?*" West Midlands and West Sussex had also adopted the form used in the ACOP/HMIP surveys as a checklist.
- 4.39 The quality control processes observed during the course of the inspection involved a combination of different elements:
- discussion with peers
  - quality control by the SPO
  - periodic sampling or audits
  - second reading by court duty staff.
- 4.40 The findings raised questions about the efficacy of some services' gatekeeping procedures. All the stages outlined above relied on the staff member involved, whether PO or manager, understanding anti-discriminatory practice. The existence of detailed policy and practice guidance, to provide a framework supported by appropriate training of all staff including middle managers, cannot be underestimated. Guidelines need to be clear and explicit and to express difficult concepts in an accessible way.
- 4.41 The failure by the majority of services visited to monitor their performance of PSRs written on minority ethnic offenders was of considerable concern. Little use was made of concordance rates by any service to explore differences in the impact and effectiveness of reports. Comprehensive monitoring of PSRs took place in Inner London, Nottinghamshire and the West Midlands but did not appear to be actively used by managers at district and team level to inform practice.
- 4.42 The findings point to the need for all services to collect data on the race and ethnic origin of defendants at the PSR stage.

In addition, all quality assurance measures, including the ACOP/HMIP form, need to be revised to ensure the effective assessment of cultural and racial differences in reports written on minority ethnic offenders.

### Summary

- 4.43 Although almost all services had developed policies or practice guidelines relating to the preparation of PSRs, only half referred specifically to the needs of minority ethnic offenders. Inner London was the only service of those visited to refer extensively to the importance of addressing the different requirements of minority ethnic offenders in the guidance recently issued to staff.
- 4.44 The proportion of PSRs prepared for the magistrates' courts was significantly higher for white offenders than for minority ethnic offenders. Proportionately more African/African-Caribbean offenders than white offenders had been remanded in custody. It was not possible during the inspection to ascertain the reasons for the variations since they largely related to decisions made in other parts of the criminal justice system.
- 4.45 Overall, only 57 per cent of all the PSRs included in the sample were considered to be of a satisfactory or very good standard. Examination of the various PSR sections, revealed noticeable variations on a number of aspects in the quality of those written on minority ethnic offenders. The failure to comment on the management of risk in the majority of PSRs prepared on African/African-Caribbean offenders was of major concern. A significantly higher proportion of PSRs written on African/African-Caribbean offenders contained either a clear proposal for custody or acknowledgement that custody was a likely option than on white offenders. However, the number of reports containing a clear proposal for a probation order without requirements or for a combination order was consistent across all ethnic groups. Proposals for CS were noticeably higher for offenders recorded as "other" than white offenders.
- 4.46 Overall, 60 per cent of PSRs written on white offenders and 63 per cent on Asian offenders were considered to be of a satisfactory or very good standard. In contrast, the figure for African/African-Caribbean offenders was 49 per cent. Noticeable variations were found when the performance of each of the services visited was examined.
- 4.47 Despite some examples of good practice, examination revealed a significantly higher quality of reports overall on white than on African/African-Caribbean offenders. These worrying

findings, particularly in relation to the management of risk, have implications for the effective supervision of the offender. Work undertaken at the PSR stage should inform not only the proposal in the report but also, if a community sentence is imposed, the initial assessment of the offender.

- 4.48 All services except Avon and South Glamorgan operated some form of quality assurance procedures. The findings raise questions about the efficacy of many of these procedures. Little use was made by any service of concordance rates to explore differences in the impact and effectiveness of reports on minority ethnic offenders. The failure by the majority of services to collect data on race and ethnic origin and monitor their performance on reports written on minority ethnic offenders had contributed to inconsistent service delivery.

### **Recommendations**

- 4.49 It is therefore recommended that:

*Probation committees and CPOs should take action to improve the overall quality of PSRs on minority ethnic offenders by:*

- (a) setting an annual target for improvement from 2001;*
- (b) revising policy statements and practice guidance in respect of PSRs to take account of specific issues relating to minority ethnic offenders;*
- (c) collecting and using comprehensive monitoring data, including the race and ethnic background of offenders;*
- (d) ensuring that quality assurance measures address the particular circumstances of minority ethnic offenders.*

## 5. PROBATION ORDERS

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5.1 This chapter examines work with offenders from minority ethnic groups subject to probation orders to assess whether it was undertaken in accordance with national standards and delivered fairly and consistently. It considers the application of the principles of effective practice to work with minority ethnic offenders.

### Key performance indicators and national targets

5.2 The Home Office Plan for the Probation Service 1998/99 included a number of key performance indicators (KPIs)<sup>39</sup> and targets relating to probation orders:

- the first contact with the offender to be within the time limit set by the national standard of five working days in 80 per cent of cases
- breach action to be taken in 90 per cent of all relevant cases, on or before a third unacceptable failure, in accordance with national standards.

### Compliance with the national standard

5.3 The national standards 1995 (para 3.3) stated that the statutory purpose of supervision under a probation order was to secure the rehabilitation of the offender, protect the public from harm and prevent the offender from committing further offences.

5.4 Other than the section entitled "Equal opportunities" contained in the introduction, the standards made no further explicit reference to work with minority ethnic offenders.

### Service policy

5.5 All the services visited had policies or practice guidelines on probation orders. None contained detailed reference to the

<sup>39</sup> KPIs are established for the service to monitor performance on certain pieces of work. The KPIs for a given year, with associated targets, are set in plans for the probation service published by the Home Office which set out Ministers' priorities and policy aims for the service.

particular needs of minority ethnic offenders, although Cheshire, Inner London, Merseyside and West Midlands included a section on equal opportunities.

### The quality of work

- 5.6 A sample of 386 offender case files was examined from the 10 services visited (see Appendix 4). It included white offenders to provide comparisons with work undertaken with minority ethnic offenders and also to consider how services addressed the racist attitudes and behaviour of offenders subject to supervision. Full information, including data on race and ethnic origin, was not available for all reports mainly because of incomplete recording by the services. Of the sample:
- 183 (47 per cent) were white; 142 (37 per cent) were African/African-Caribbean, 29 (8 per cent) Asian and 29 (8 per cent) were recorded as "other".<sup>40</sup> The information on race and ethnic origin was missing in three (1 per cent) cases
  - 68 per cent of all offenders were subject to a probation order without any additional requirements. Little difference was found between ethnic groups
  - 74 per cent of African/African-Caribbean offenders were subject to a one year probation order, compared to 62 per cent of white offenders and 66 per cent of Asian offenders
  - 25 per cent of all offenders had been convicted of a "more serious offence". Little difference was found between ethnic groups.
- 5.7 The number of minority ethnic offenders in the sample provided by Cheshire and Cornwall reflected the low numbers on the caseload and was extremely small. The sample consisted of:
- five African/African-Caribbean offenders and one Asian offender in Cheshire
  - one African/African-Caribbean offender and two offenders recorded as "other" in Cornwall.

<sup>40</sup> A number of these were cases where the service's recording of the race and ethnic origin coding, arising from the offender's self-assessment, was incomplete.

## Assessment and management of risk

5.8 The national standards 1995 (paras 3.6-3.9) stated that, in every case, an assessment of risk should be made assessing both the risk of reoffending and risk of harm to members of the public, to staff and self-harm which should be reviewed at regular intervals.

5.9 The proportion of risk assessments completed to a satisfactory standard is shown in table 7.

Table 7: Completion rate of risk assessments assessed as satisfactory by race and ethnic origin  
(Source: HMIP file reading exercise)

Risk assessed as satisfactory:	Overall	White	African/African-Caribbean	Asian	"Other"
Harm to the public	64%	66%	60%	59%	79%
Harm to staff	51%	56%	42%	48%	66%
Harm to self	54%	61%	44%	48%	62%
Reoffending	78%	76%	76%	89%	85%

### Commentary:

- It was of concern to note that an assessment of risk of harm to the public was completed to a satisfactory standard in only 64 per cent of all cases. Little overall difference was observed between all groups.
- A satisfactory assessment of the risk of harm to self and to staff was significantly more likely to be completed for white offenders than for African/African-Caribbean offenders.
- Little overall difference was observed between all groups in assessing the risk of reoffending.

5.10 Some differences were observed in the performance of individual services:

- in West Midlands where the risk of harm to the public was considered satisfactory in 12 out of 15 African/African-Caribbean offenders compared to 10 out of 19 white offenders
- in West Sussex, the risk of harm to the public and to staff was assessed in all six African/African-Caribbean offenders and all three Asian offenders. Risk of self-harm was also assessed in all of the above cases with the exception of one Asian offender. Risk of harm to the public, to staff and self-harm was considered in the majority but not all cases on white offenders
- in Merseyside, the risk of harm to staff was satisfactorily considered in the cases of only four of 25 African/African-Caribbean offenders compared to

seven of 20 white offenders and in Cheshire for none of the five African/African-Caribbean offenders compared to seven of the 20 white offenders

- in Merseyside and Cheshire, an adequate assessment of the risk of self-harm was also more likely to be undertaken for white offenders than for African/African-Caribbean offenders. In Merseyside, the risk of self-harm was satisfactorily considered in four of 26 African/African-Caribbean offenders compared with nine of 20 white offenders and in Cheshire, in one of five African/African-Caribbean offenders compared to 11 of 20 white offenders.

5.11 In 20 per cent of all cases, the file suggested that a situation had arisen which could have led to the offender causing harm to another person. Of these, the supervising officer took appropriate action in 66 per cent (21 cases) of white offenders, 62 per cent (18 cases) of African/African-Caribbean offenders; 60 per cent (three cases) of Asian offenders and 43 per cent (three cases) of "other" offenders.

5.12 In common with staff in other rural services, many staff in West Sussex had little experience of supervising minority ethnic offenders and expressed considerable lack of confidence in their ability to do so. The service was alone, however, in providing a consistently high standard of risk assessment and risk management for minority ethnic offenders.

### Contact

5.13 The national standards 1995 stated that:

- the initial appointment between the supervising officer and the offender should take place within five working days of the making of the order (para 3.10)
- the offender should attend a minimum of 12 appointments with the supervisor (or a person working to his or her direction) in the first three months of an order, six in the subsequent three months and thereafter at least one each month to the completion of the order (para 3.21)
- the offender's home should be visited on at least one occasion (para 3.15).

5.14 Examination of the case files revealed little difference between ethnic groups with regard to the initial meeting with the offender. Details of contact during the course of the order are given in table 8.



Table 8: Level of contact during probation order (Source: HMIP file reading exercise)

Level of contact during probation order		Overall	White	African/African-Caribbean	Asian	"Other"
One to three months	12 contacts offered	52%	57%	49%	52%	45%
	12 contacts kept	23%	27%	19%	24%	21%
Four to six months	Six contacts offered	73%	74%	72%	77%	64%
	Six contacts kept	46%	54%	37%	50%	44%
After six months	Monthly contact offered	77%	78%	77%	70%	58%
	Monthly contact kept	56%	65%	49%	40%	58%

**Commentary:**

- Little difference was observed between ethnic groups in the level of contact offered and maintained during the first three months of the order. It was, however, disconcerting to note the low level of contact during the first three months of the order in all cases.
- Although the percentage of offenders offered six or more appointments during the second three months of the order was comparable for all groups, a significantly higher proportion of white offenders kept six appointments or more compared to African/African-Caribbean offenders.
- Similarly, there was little variation found between ethnic groups in the rate of appointments offered after the first six months of the order but monthly contact was more likely to take place with white offenders than with African/African-Caribbean offenders.

5.15 A home visit took place in 28 per cent of all cases. Little difference was noted between ethnic groups either overall or in the performance of individual services. In West Midlands, home visits were undertaken in 22 of 46 cases (48 per cent). In all other services, the proportion was considerably lower.

5.16 The level of supervision and oversight of minority ethnic offenders by the majority of services was poor:

- in Inner London, in spite of the development of group work programmes for minority ethnic offenders across the service, only eight of the 19 African/African-Caribbean offenders were offered 12 appointments during the first three months of the order, and only two were actually seen 12 times. However, the figures for white offenders were similarly low. In the subsequent three months of the order, only two of 16 African/African-

Caribbean offenders still subject to supervision were seen six times compared to 10 of 17 white offenders, although the proportion offered appointments were broadly similar

- in Nottinghamshire, none of the 16 African/African-Caribbean offenders considered were seen 12 times during the first three months of their order and only one of 14 was seen six times during the subsequent three months compared to seven of 16 white offenders. Monthly contact thereafter took place with three of the 12 African/African-Caribbean offenders still subject to supervision in comparison with nine of the 15 white offenders
- in Merseyside, monthly contact took place with only six of the 19 African/African-Caribbean offenders subject to supervision after six months compared to nine of the 13 white offenders, and in West Midlands with five of 13 African/African-Caribbean offenders in comparison with 10 of 14 white offenders.

5.17 HMIP was concerned at the overall poor standard of supervision provided for minority ethnic offenders. In particular, the increasing difference in the number of appointments kept between minority ethnic offenders during the course of the order was significant and raised questions both about services' ability to sustain contact with offenders from minority ethnic groups and the enforcement of orders. This situation requires attention by all services.

### Supervision plan

5.18 The national standards 1995 stated that:

*"A supervision plan ... should be drawn up in writing, in consultation with the offender, **within 10 working days** of the making of the probation order*

*The plan should subsequently be developed, supplemented and reviewed as necessary to achieve and maintain the objectives of the probation order ..."* (paras 3.12-3.13)

5.19 In February 1999, HMIP published the findings of a thematic inspection undertaken in 46 areas on offender assessment and supervision planning.<sup>41</sup> A form was devised specifically to collect information on race and ethnic origin and in the small

<sup>41</sup> HM Inspectorate of Probation *Offender Assessment and Supervision Planning: Helping to achieve effective intervention with offenders. Report of a Developmental Thematic Inspection undertaken in collaboration with 46 Probation Services.* (1999).

number of minority ethnic offenders found in the sample it was noticeable that:

- the overall quality of supervision plans written on African/African-Caribbean offenders tended to be better than those on white offenders
- the quality of those written on Asian offenders was similar to those on white offenders
- issues about race were identified as needing specific attention in only 2 per cent of the supervision plans examined
- few of the supervision plans examined addressed the offender's experience of discrimination.

5.20 The file reading exercise undertaken as part of the inspection revealed little difference between ethnic groups in relation to the completion of supervision plans or their subsequent review. More detailed analysis of the findings showed that:

- work was more likely to be undertaken to address offence related problems, such as drug or alcohol abuse, in 80 per cent of cases on white offenders compared to 70 per cent of African/African-Caribbean offenders
- objectives in the supervision plan were considered to be adequately implemented in a consistent manner in 79 per cent of cases on white offenders compared with 63 per cent of African/African-Caribbean.

5.21 Examination of work specifically undertaken with minority ethnic offenders revealed that, overall, the offender's relevant cultural needs were taken into account in 9 per cent of cases and their religious needs in 6 per cent of cases. However, where there was evidence in the case file of the need for attention to these issues, action was taken in 47 and 67 per cent of cases respectively. The highest proportion of both these groups were Asian offenders. The offender's experience of racism was discussed in 25 per cent of all African/African-Caribbean cases, but in none of the Asian cases. In the majority of instances, this discussion took place during individual supervision sessions, although it also formed part of induction or group work supervision. Of all the services visited, Inner London and Merseyside were the only ones where there was evidence that the issue of racism was more frequently discussed with minority ethnic offenders during the course of supervision. In Merseyside, the offender's experience of racism had been explored in nine of 26 cases of African/African-Caribbean offenders and in two instances action was identified in the supervision plan to take work forward. It was apparent

from reading the case files that the PO's sensitivity to the offender's fear of racist attack had enhanced the effectiveness of supervision. Such examples of good practice were disappointingly rare.

- 5.22 HMIP was concerned at the tendency of many staff, evident in the examination of case files during the inspection, to focus on welfare concerns as opposed to offence related problems when working with offenders from minority ethnic groups. The failure to challenge minority ethnic offenders' behaviour was confirmed in discussion with many white members of staff, both managers and practitioners, who described their uncertainty and lack of confidence in working with offenders from minority ethnic groups. Many felt inadequately prepared and trained to address sensitive cultural issues during the course of supervision. The importance of POs' awareness to these issues was, however, emphasised by offenders in meetings held in all services. Some white staff revealed that, as a result of becoming oversensitised to the issue of race, they avoided issues that they would have addressed competently when working with white offenders. Whatever the causes, the consequences were reflected in the failure to engage with and challenge the offending behaviour of a significant proportion of minority ethnic offenders across all services.

### **Enforcement**

- 5.23 The national standard 1995 (para 3.22-3.24) stated that the overall purpose of enforcement was to secure and maintain the offender's cooperation and compliance with the order in order to ensure successful completion. It required that any apparent failure to comply be followed up within two working days, if the explanation (or the lack of one) was not considered acceptable, the incident be formally recorded as an instance of failure to comply and that no more than two warnings within any 12 month period of the order be given before breach proceedings were instigated.
- 5.24 This finding differs somewhat from those of the two ACOP audits on enforcement practice.<sup>42</sup> Certain variations were found in relation to the enforcement of minority ethnic offenders, although some of the numbers were too small for firm conclusions. Table 9 shows the results for enforcement practice between ethnic groups.

<sup>42</sup> Association of Chief Officers of Probation *The ACOP Enforcement Audit - Stage One* (September 1999).

Table 9: Enforcement (Source: HMIP file reading exercise)

	Overall 1	White	African/African -Caribbean	Asian*	"Other"
Failure to comply followed up within two working days	40%	43%	42%	22%	28%
Offender's explanation clearly recorded	42%	49%	42%	17%	25%
PO's acceptance of explanation clearly recorded	33%	40%	26%	18%	30%
Breach action taken where third unacceptable absence in 12 months	28%	32%	23%	31%	41%

\* Only a small number of relevant cases were included in this analysis.

**Commentary:**

- Little difference between ethnic groups was noted in the proportion of cases followed up within two working days.
- The offender's explanation was recorded in a higher proportion of cases on white and African/African-Caribbean offenders than Asian offenders.
- The PO's opinion of whether the explanation was acceptable or not was recorded in a higher proportion of cases on white offenders than African/African-Caribbean or Asian offenders.
- The PO's opinion on the acceptability of the offender's explanation, was clearly recorded, in a higher proportion of cases on white offenders than African/African-Caribbean or Asian offenders.
- In 28 per cent of relevant cases breach action was taken after the third unacceptable absence with little variations between ethnic groups.

5.25 The West Midlands sample included 11 cases on Asian offenders. As such, it provided the largest group of Asian offenders subject to probation orders supervised by one service considered by the inspection. It was found that:

- no record was made of the offender's explanation for their apparent failure to comply in any of the eight cases on Asian offenders compared with eight of 13 white offenders and seven of 13 African/African-Caribbean offenders
- no record was made of the PO's opinion of the offender's explanation for their apparent failure to comply in any of the seven cases on Asian offenders

compared with five of nine white offenders and two of 13 African/African-Caribbean offenders

- where the apparent failure and the PO's opinion on acceptability were recorded, the assessment was considered appropriate in only one of five cases on Asian offenders compared to eight of 10 African/African-Caribbean offenders.

5.26 The numbers of Asian offenders supervised by other services were too low to assess whether the findings in West Midlands were more widely applicable. However, the findings suggest the need for all services to review their practice with Asian offenders.

5.27 Little difference was observed in enforcement practice between ethnic groups. However, the proportion of cases where there was no third unacceptable failure within a 12 month period was:

- 45 per cent of white offenders
- 50 per cent of African/African-Caribbean offenders
- 52 per cent of Asian offenders
- 41 per cent of offenders who were recorded as "other".

5.28 The results above could be interpreted as positive evidence of compliance. However, in light of the findings on the low rate of contact and failure to record unacceptable absences with African/African-Caribbean offenders in particular, they could, in fact, be a further indication of the reluctance of a significant number of staff to engage effectively with this group of offenders. This situation requires investigation by services.

### **"What Works" initiative**

5.29 In January 1998, HMIP published its report "Strategies for Effective Offender Supervision".<sup>43</sup> A national implementation strategy was devised and issued to services.<sup>44</sup> An effective practice guide was subsequently published in July 1998.<sup>45</sup>

5.30 Within the Home Office a team was established to assist in the identification of a range of Pathfinder programmes<sup>46</sup> which were

<sup>43</sup> HM Inspectorate of Probation *Strategies for Effective Offender Supervision* (1998).

<sup>44</sup> Home Office Probation Circular 35/1998 *Effective Practice Initiative: National Implementation Plan*.

<sup>45</sup> HM Inspectorate of Probation *Evidence Based Practice - A Guide to Effective Practice* (1998).

<sup>46</sup> The aim of the "Pathfinder Project" was to develop a core curriculum of evidence based accredited programmes that addressed the full range of

to be developed in accordance with "What Works" principles and made available nationally. Criteria for these programmes were agreed and services were invited to submit group work programmes for consideration as potential Pathfinders in March 1999.

- 5.31 Although a number of services, including Inner London and West Midlands, submitted their programmes for working with minority ethnic offenders, none were considered to meet the stringent criteria of the accreditation programme. The Home Office therefore decided to postpone the establishment of Pathfinder programmes aimed at both minority ethnic and racially motivated offenders pending the outcome of a research review. Two reference groups, which included representatives of local services, were established to identify the most effective methods of working with both minority ethnic and racially motivated offenders. This work was currently being taken forward and will advise future service practice.

#### **Current group work with minority ethnic offenders**

- 5.32 As part of the implementation of their "What Works" strategy, some, but not all, of the services visited had begun to consider the application of "What Works" principles to work with minority ethnic offenders. The commitment and enthusiasm shown by staff in the services where group work practice with minority ethnic offenders was evolving was commendable. Work undertaken by services included:

- in South East London, a 10 week programme for minority ethnic offenders was developed based on the principles of "What Works". A consultant was employed by the service to advise on its development. The group had difficulty in attracting sufficient referrals initially but was eventually run successfully by the service
- in Inner London, a group targeted at heavily convicted African/African-Caribbean and Asian offenders had been developed in 1992 and had since run on a regular basis as part of the 1A(2)<sup>47</sup> programme. The group was based on cognitive behavioural techniques with strong emphasis placed on pro-social modelling. In addition, the

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factors affecting reoffending. The definition of a programme was taken from the guide "Evidence Based Practice" as "a planned series of interventions over a specified time period which can be demonstrated to positively change attitudes, beliefs, behaviour and social circumstances".

<sup>47</sup> Paragraphs 2 and 3 of Schedule 1 to the Powers of the Criminal Courts Act 1973, as inserted by the Criminal Justice Act 1991. "Probation orders which require the offender to present him or herself to a specified person or place, or to participate in a specified activity or to attend at a probation centre."

service was in the process of developing a second programme targeted at minority ethnic offenders focusing on employment. A qualitative monitoring programme had been established to assess the effectiveness of the work of the 1A(2) programme with minority ethnic offenders. The results had still to be collated at the time of the fieldwork inspection but early indications suggested that although the reconviction rate remained as predicted, the completion rate had improved significantly

- in Nottinghamshire, attention had more recently focused on the responsibility of the group work programmes and the accessibility of service provision to minority ethnic offenders but it was not clear with what result. There was ongoing debate whether there should be separate groups for minority ethnic offenders
- in West Midlands, a specific group work programme had been developed by staff in 1996. Emphasis was placed on the importance of the responsibility of the programme for minority ethnic offenders. The programme aimed to assist offenders to examine the effect of racism on their behaviour and consider whether it had contributed to their offending. In spite of a group scheduled in January 1999 being cancelled due to lack of referrals, two groups were completed successfully later in the year.

5.33 In the past, discrete programmes had also been established by Avon, Merseyside, and Nottinghamshire but had not been sustained due to lack of referrals. A group in South Glamorgan had been developed but not run, again because of low referrals. It was difficult to assess why the referral rate to specialist facilities for minority ethnic offenders was so low in services which should have been able to sustain a discrete programme. Factors identified which contributed to the low referral rate included:

- absence of targets for the number of referrals of minority ethnic offenders to group work programmes or other specialist facilities
- absence of specific eligibility criteria for groups leading to a lack of confidence and understanding amongst staff in identifying potential referrals
- individual POs' failure to assess and address minority ethnic offenders' offending behaviour and the risk posed by such behaviour
- role of the middle manager in the oversight of practice



- lack of monitoring information, with little use made of data to inform and change practice.

5.34 The small number of offenders from minority ethnic groups subject to probation orders at any one time in services such as Cheshire, Cornwall and West Sussex meant that the establishment of a structured group work programme targeted exclusively at minority ethnic offenders and run in accordance with "What Works" principles was logistically difficult and none had been run. Work was currently ongoing in South Glamorgan to address this issue by the adaptation of the group work programme for use with individual offenders. The West Midlands service had also considered the accessibility of specialist groups, such as the domestic violence programme, for the small number of minority ethnic offenders for whom they would be relevant. Measures taken by that service included the development of cross-divisional provision and steps to enhance the responsiveness of existing programmes, such as the use of culturally sensitive material in groups and ensuring that groups were staffed by both white and minority ethnic staff.

5.35 It was apparent that further work was required in the majority of services to develop clear objectives, structured programmes and appropriate systems for monitoring and evaluation.

5.36 Surprisingly, little use was made of the expertise available through partnership organisations. Three examples showed what could be achieved:

- in Avon, an agreement had been reached for offenders to be referred to a group called Nilaari who offered culturally sensitive counselling to alcohol abusers from minority ethnic groups
- in Inner London, a formal partnership project had been established with a local organisation to provide an input on employment, education and training on a group work programme for unemployed offenders from minority ethnic groups
- work was also being considered in Inner London with the Greenwich Vietnamese Community to address the needs of Vietnamese offenders.

### **Use of interpreters**

5.37 Although the 1995 national standards placed considerable weight on the importance of providing information to offenders in writing, little attention was given in the standards to the position of offenders for whom English was a second language.

- 5.38 The use of interpreters by the services visited during the course of the inspection was extremely limited and confined mainly to those services, such as Inner London, Nottinghamshire and the West Midlands, where the local population included a high proportion of people from minority ethnic groups.
- 5.39 There was evidence that an interpreter was required in only three out of the 386 cases (1 per cent of the probation order sample). The cases were from Avon, Merseyside and Nottinghamshire and, illustrate the different practice adopted by services. In two of the three cases, an interpreter was considered necessary for all sessions:
- in the Avon case, there was evidence to suggest that an interpreter was needed for only some of the sessions. It was a matter of concern, however, that one was not provided
  - in the Merseyside case, an interpreter was provided for some but not all of the sessions. In this instance the file reader commented "*the biggest problem on the order in general appears to be the lack of interpreting services. This, combined with the assessment that this man was not high risk, appeared to result in the order being primarily a monitoring process*"
  - in the Nottinghamshire case, an interpreter was provided for all the sessions required and, in the opinion of the file reader, the use of the interpreter worked well. All formal documents issued to the offender were translated into Punjabi, including the PSR.
- 5.40 A significant amount of work on the use of interpreters had been undertaken by West Midlands. In order to ensure consistency of approach with all offenders, in 1997 the service had commissioned a consultant to assist them in developing a coherent framework within which to discharge its responsibilities in a multilingual society. The report,<sup>48</sup> published in 1998, provided the service with a comprehensive and far-sighted strategy and included recommendations relating to interpreters, translators, bilingual members of staff and service training needs.
- 5.41 The service had taken the strategy forward through the establishment of a group of accredited interpreters who met regularly with service managers to discuss issues of mutual concern. Meetings also included an input on specific aspects of service practice, such as work with sex offenders. Regular

<sup>48</sup> Ann Corsellis *Working Across Language and Culture* (West Midlands Probation Service 1998).

monitoring was undertaken which showed that, between October 1998 and March 1999, an interpreter was used in work with offenders on 223 occasions, of which 68 were for the preparation of a PSR and 50 for the purposes of supervision. The language for which interpreters were most frequently required was Punjabi.

5.42 Discussion with a group of interpreters in West Midlands highlighted the importance of:

- training for staff in working with interpreters
- prior discussion with the interpreter to prepare for the interview
- sensitivity to the needs of the interpreter
- some form of debrief, particularly after difficult or distressing interviews.

### Summary

5.43 All the services visited had produced policies or practice guidelines relating to the supervision of offenders subject to probation orders. Despite recognition of the importance of equal opportunities by some services, none made extensive reference to the particular needs of minority ethnic offenders.

5.44 It was of concern that a satisfactory assessment of risk of harm to the public was completed in only 64 per cent of cases, although there was little variation between ethnic groups. Examination of the quality of supervision revealed significant concerns in relation to African/African-Caribbean offenders, particularly regarding the level of contact during the later stages of the order and enforcement practice. Many staff tended to focus on welfare concerns as opposed to offence related problems when working with offenders from minority ethnic groups. The failure to address the criminogenic needs of offenders was confirmed in discussion with many white members of staff, both managers and practitioners, who described their uncertainty and lack of confidence in working with offenders from minority ethnic groups.

5.45 A number of services, including Inner London and West Midlands, had submitted their programmes for working with minority ethnic offenders for inclusion in the Home Office Pathfinder programmes which were to be developed in accordance with "What Works" principles and made available nationally. However, none met the stringent accreditation criteria. Further work was currently being undertaken to identify the most effective

methods of working with both minority ethnic and racially motivated offenders.

- 5.46 As part of the implementation of their "What Works" strategy some, but not all services visited had begun to consider the application of the principles to work with minority ethnic offenders. The commitment and enthusiasm shown by staff in the services where groups for minority ethnic offenders were evolving was commendable. It was apparent, however, that work was required in the majority of services to develop clear objectives, structured programmes and appropriate systems for monitoring and evaluation.
- 5.47 The small number of offenders from minority ethnic groups subject to probation orders at any one time in services such as Cheshire, Cornwall and West Sussex meant that the establishment of a structured group work programme targeted exclusively at minority ethnic groups and run in accordance with "What Works" principles was logistically difficult.
- 5.48 Where used, partner organisations proved a valuable resource to services in providing culturally sensitive services to minority ethnic offenders. Some creative initiatives were found. The involvement of partner organisations in working with a small number of minority ethnic offenders with special requirements could alleviate the difficulties faced by some services in meeting these offenders' different needs.
- 5.49 The use of interpreters as developed in West Midlands provides a useful example of how professional skills and experience can best be accessed by services to support the work of services with offenders who have limited knowledge of English.

### **Recommendation**

- 5.50 It is therefore recommended that:

*CPOs should ensure that in implementing and monitoring the revised national standards and local "What Works" strategies, they should make specific provision for effective work with minority ethnic offenders.*



## 6. COMMUNITY SERVICE

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6.1 This chapter examines work with minority ethnic offenders subject to CS and considers whether sufficient attention is paid to their particular needs.

### Key performance indicators and national targets

6.2 The Home Office Plan for the Probation Service 1998/99 included a number of KPIs<sup>49</sup> and associated targets relating to CS:

- the first contact with the offender to be within the national standard time limit of five working days in 80 per cent of cases
- breach action to be taken on or before a third unacceptable failure, in accordance with national standards, in 90 per cent of all relevant cases.

### The national standard

6.3 The national standards 1995 (para 5.2) stated that the main purpose of a CS order was to prevent further offending by re-integrating the offender into the community by means of positive and demanding unpaid work and through reparation to the community by undertaking socially useful work.

6.4 The standards also stated that offenders subject to CS should be given written instructions setting out required standards of behaviour. Where relevant, these should be provided in other languages. Behaviour prohibited by the standards included threats of violence or any other conduct or language that might reasonably cause offence.

### Service policy

6.5 The audit revealed that 43 services (83 per cent of 52 responding on this point) had CS policy/practice guidelines and, of these, 14 referred explicitly to the needs of minority ethnic offenders.

6.6 All the services visited with the exception of South Glamorgan had either a CS policy or practice guidelines. Inner London,

<sup>49</sup> Ibid, see footnote 39.

Nottinghamshire, Merseyside and the West Midlands included the following reference to the specific needs of minority ethnic offenders:

- employment of supervisors from minority ethnic groups by Nottinghamshire
- provision of sufficient work placements for offenders from minority ethnic groups by both Merseyside and the West Midlands
- ensuring that minority ethnic offenders were not isolated in what would otherwise be all white groups by Inner London.

6.7 The guidelines produced by some services were particularly helpful in articulating difficult concepts in an easily accessible form. Guidance notes for CS sessional supervisors in Inner London included:

*"Implementing equal opportunities is more than a willingness to accept everyone equally. It is being able to recognise and understand the difference, i.e. a Sessional Supervisor may have to spend more time and make an extra effort to work effectively with someone from a different cultural or religious background."*

### **The quality of work**

6.8 A sample of 401 offender cases from the 10 services visited was examined and included white offenders to provide a comparison with minority ethnic offenders. Full details are given in Appendix 5. Full information, including data on race and ethnic origin, was not available for all reports mainly because of incomplete recording by the services. Of the sample:

- 194 (48 per cent) were white, 141 (35 per cent) were African/African-Caribbean, 40 (10 per cent) were Asian and 25 (6 per cent) were recorded as "other."<sup>50</sup> In one case, the information on race and ethnic origin was missing
- 55 per cent of the orders were for 100 hours or less with little variation across ethnic groups
- the proportion of offenders convicted of "more serious" offences was comparable across all ethnic groups.

<sup>50</sup> A number of these were cases where the service's recording of the race and ethnic origin coding, arising from the offender's self-assessment, was incomplete.

## Assessment and the management of risk

6.9 The national standards 1995 (para 5.8) stated that an assessment of the offender should be undertaken before a placement was arranged. The assessment should first consider the risk of the offender reoffending or causing harm, either to members of the public, others including probation staff or to themselves.

6.10 Examination of the case files revealed that a risk assessment<sup>51</sup> was undertaken for only 54 per cent of African/African-Caribbean offenders compared to 73 per cent of white offenders, 80 per cent of Asian offenders and 79 per cent of offenders recorded as "other". Noticeable variations were found between services. For example:

- in Merseyside, only six of the 16 African/African-Caribbean offenders' case files contained a risk assessment, compared to 18 of 20 white offenders
- in contrast, in West Sussex, risk assessments were prepared at the start of sentence on all the eight African/African-Caribbean offenders and eight Asian offenders as well as 17 of 21 white offenders.

6.11 Table 10 examines the different aspects of the risk assessment and shows the proportion which were considered satisfactory.

Table 10: Aspects covered satisfactorily by the risk assessment (Source: HMIP file reading exercise)

Satisfactory assessment of:	Overall	White	African/African-Caribbean	Asian	"Other"
Risk of reoffending	74%	72%	76%	75%	83%
Risk of harm to the public	81%	85%	73%	78%	89%
Risk of harm to staff	78%	82%	70%	75%	89%
Risk of self harm	69%	73%	64%	68%	56%
Risk of racially motivated behaviour	13%	13%	10%	10%	31%

### Commentary:

- Risk of harm to the public was satisfactorily assessed in a significantly higher proportion of white offenders than African/African-Caribbean offenders.
- Risk of harm to staff was satisfactorily assessed overall in a significantly higher proportion of white offenders than African/African-Caribbean offenders.
- Risk of racially motivated behaviour was considered in only a small proportion of cases overall. However, in

<sup>51</sup> In some instances, it was not clear whether the risk assessment had been prepared by CS staff or the PSR writer.



the 37 cases drawn from all services, where there was some indication from the file of racist attitudes or behaviour, the issue was included in the risk assessment in 33 (89 per cent).

- There was no significant difference between ethnic groups in the extent to which the risk of reoffending or of self-harm was covered.

6.12 Significant variations were found in different services. For example:

- West Sussex was the sole service where the assessments prepared on every African/African-Caribbean and Asian offender included all the different elements
- in Avon, only seven of 14 and in South Glamorgan, only three of seven African/African-Caribbean offenders' assessments included harm to the public, compared to 10 of 14 and 17 of 19 white offenders respectively
- in Merseyside, harm to staff was satisfactorily assessed in only two out of six cases of African/African-Caribbean offenders compared to 11 of 18 white offenders and the risk of self-harm in one of six African/African-Caribbean offenders compared to eight of 18 white offenders.

6.13 The inconsistent practice in the completion of risk assessments on all offenders but especially African/African-Caribbean offenders subject to CS was a matter of grave concern, as was the apparent lack of attention given to the assessment of racist attitudes and behaviour. The failure to assess risk effectively by the majority of services had serious implications for the placement of offenders subject to CS and requires immediate attention.

#### **Assessment of offenders' circumstances prior to placement**

6.14 The national standards 1995 (paras 5.8-5.12) stated that an assessment should be made of offenders' circumstances prior to placement but no mention was made in the lengthy list of issues to consider of the need to take account of the offender's different religious or cultural requirements.

6.15 A general written assessment had been prepared on the offender by CS staff before the placement was arranged in 77 per cent of all cases. Little overall difference was revealed between ethnic groups. Merseyside was the only service to show a noticeable difference in performance between ethnic groups, in that a written assessment had been prepared in accordance with

national standards on all 20 of 20 white offenders in comparison to 10 of 15 African/African-Caribbean offenders.

6.16 Factors considered in accordance with the national standard by the assessment, where undertaken, are shown in table 11.

Table 11: Issues considered as part of the assessment process (Source: HMIP file reading exercise)

	Overall	White	African/African -Caribbean	Asian	"Other"
Health and safety	58%	63%	48%	62%	72%
Personal circumstances	89%	92%	89%	78%	91%
Domestic circumstances	89%	92%	88%	81%	91%
Religious requirements	34%	31%	37%	31%	36%
Cultural needs	18%	20%	12%	23%	18%
Need for interpreter	25%	26%	22%	28%	30%

**Commentary:**

- Assessments addressing health and safety had been prepared in a significantly higher proportion of cases of white offenders and those recorded as "other" than for African/African-Caribbean offenders.
- The personal circumstances of white offenders were more likely to be addressed than those of Asian offenders. However, there was no significant difference between ethnic groups in the extent to which domestic circumstances were addressed.
- Consideration was given to the offender's religious and cultural requirements in 34 and 18 per cent of all cases respectively.
- The need for an interpreter was considered in a quarter of all cases.

6.17 Given their omission from national standards, it was perhaps not surprising that the offender's religious and cultural requirements were considered in such a low proportion of cases. No significant differences were found between the ethnic groups. The omission could, however, disadvantage a disproportionate number of minority ethnic offenders compared to white offenders given the wide range of cultural needs within the group and the higher proportion of African/African-Caribbean, Asian and "other" offenders belonging to different religions. It was therefore important that such an assessment should be made on minority ethnic offenders so that the placement could take account of the dates of religious festivals, dietary requirements and any other different needs where these had been assessed as relevant.

6.18 In Avon, West Midlands and West Sussex, the assessment form included questions on cultural and religious requirements and any other factors which could have an impact on the individual's ability to complete their CS order satisfactorily. The form adopted by Avon had recently been amended so that the individual's race and ethnic origin was clearly identified. Examination of the case files suggested that both Avon and Cheshire gave a higher priority to the offender's religious requirements as opposed to their cultural needs. However, they were the only two services to give either issue significant attention. Although in Inner London and Nottinghamshire consideration of the needs of minority ethnic offenders was built in to both the induction process and risk assessment, and was said to be given priority by staff, it was found that more explicit attention to the issue was required by both services.

### Placement

6.19 A thematic inspection report on CS<sup>52</sup> undertaken by HMIP in 1994 had noted the lack of provision for offenders from minority ethnic groups and had recommended that:

*"CPOs should ensure that adequate attention is paid to the needs of minority groups when considering their allocation to CS work groups and when work is being identified for offenders on CS to undertake."*

6.20 The national standards 1995 (paras 5.3-5.7) stated that placements should be demanding and of benefit to the community. They should restrict the offender's liberty and take account of his or her responsibilities but not convenience. All CS schemes should be reviewed periodically to establish whether there was a broad enough range of placements for, amongst others, offenders from minority ethnic groups.

6.21 Table 12 shows the proportion of cases where factors were identified in the assessment, when made, which CS staff considered to be relevant in determining the placement of the offender.

<sup>52</sup> HM Inspectorate of Probation *Community Service Report of a Thematic Inspection* (1994).

Table 12: Issues identified by CS staff as relevant to placement (Source: HMIP file reading exercise)

	Overall	White	African/African -Caribbean	Asian	"Other"
Nature of offending	29%	33%	27%	22%	22%
Racist attitudes	1%	1%	0%	0%	0%
Domestic circumstances	29%	33%	29%	19%	9%
Physical ability	27%	32%	18%	38%	22%
Religious requirements	4%	3%	5%	3%	4%
Cultural requirements	3%	4%	1%	3%	0%
Need for interpreter	1%	1%	1%	3%	4%
Other factors	17%	24%	12%	9%	4%
No issues identified	35%	38%	33%	31%	30%

**Commentary:**

- The proportion of cases where the offender's physical ability was identified as relevant to the choice of placement was significantly higher amongst white and Asian offenders than African/African-Caribbean offenders.
- The proportion of cases in which the offender's religious or cultural requirements were identified as relevant was extremely small and showed little difference between ethnic groups.
- No significant issues were identified, overall, in over a third of all cases. Little difference was observed between ethnic groups.

6.22 Where issues were determined as relevant (see table 12), there was evidence to show that appropriate account of these was taken in determining a suitable placement in 96 per cent of white offenders and 91 per cent of Asian offenders but in only 86 per cent of African/African-Caribbean offenders.

6.23 Examination of the types of placement showed that the proportion of:

- African/African-Caribbean offenders placed in a workshop setting was higher than that of white offenders (25 compared to 11 per cent)
- Asian offenders in an individual placement was higher than that of either white or African/African-Caribbean offenders (28 per cent compared to 14 and 10 per cent respectively)
- white offenders in group placements supervised by the probation service was higher than that of either

Africa/African-Caribbean or Asian offenders (68 per cent compared to 54 and 47 per cent respectively)

- offenders placed in group placements supervised by the beneficiary was similar for all ethnic groups.

- 6.24 There was insufficient evidence to determine whether the placement of African/African-Caribbean offenders in workshops was based on a perception of risk, and represented a stereotypical response, rather than an informed analysis. All placements should be based on a full assessment of risk and take account of health and safety issue, the offender's circumstances, where relevant, as well as their individual skills.
- 6.25 The audit of all services showed that 31 (58 per cent) had carried out CS work for local minority ethnic community organisations. Cornwall, Cheshire and West Sussex were the only services of those visited where none of the CS beneficiaries were from minority ethnic community organisations. None of the services visited had undertaken a formal review of their CS scheme either to ensure that CS benefited all sections of the community or that sufficient placements were available suitable for minority ethnic offenders. Many of the beneficiaries from minority ethnic groups seen during the inspection spoke of the satisfaction they derived from their participation in a community sentence.
- 6.26 One example was illustrative of the many creative examples seen. In West Midlands, CS workers had completed over 2,000 hours work in a multi-faith temple, EK NIWAS ("One Home"), between March and November 1999. Discussion with the temple's spiritual leader and the offenders working there confirmed the importance of such projects in the rehabilitation of offenders from all ethnic groups and in their reintegration into the community. It was evident from discussion with minority ethnic offenders that CS offered many an important and welcome opportunity for reparation to the community.
- 6.27 A broad range of suitable placements existed in the majority of other services. Services, such as Inner London and West Midlands, had given particular staff responsibility for the identification of placements for CS workers, with an emphasis on minority ethnic offenders. This is commended as good practice.
- 6.28 The findings of the sampling exercise were confirmed by discussions with staff. Despite the development of a number of imaginative placements for CS workers by many services, Nottinghamshire and West Midlands in particular, the level of understanding and sensitivity to the different needs and

requirements of minority ethnic offenders was disappointingly low in others. HMIP was particularly concerned at the lack of sensitivity and awareness displayed by some CS staff in Cheshire and Cornwall in their insistence that equality of opportunity was achieved by "treating everyone alike" and, in Cornwall, by the constant references to "coloured people".

6.29 In other services, awareness about race and ethnic origin issues was high within CS team. Inner London were considering the application of "What Works" principles to CS in which anti-discriminatory practice was seen as a central element. Considerable emphasis was therefore placed on the importance of pro-social modelling by staff who were expected to take a proactive approach with minority ethnic offenders from the point of induction onwards. Those minority ethnic offenders seen in Inner London confirmed that they had found the experience of CS a positive one. Whilst they appreciated they were being punished, they considered that they had learnt new skills, had been treated with respect and their different needs had been taken into account.

### Commencement

6.30 The national standards 1995 (para 5.13) stated that the first CS session should take place within 10 working days of the order.

6.31 Table 13 shows the proportion of cases meeting the national standard requirement in relation to the first work session by ethnic group.

Table 13: First work session (Source: HMIP file reading exercise)

First work session:	Overall 1	White	African/African -Caribbean	Asian	"Other "
Arranged within 10 working days	71%	66%	71%	84%	88%
Took place within 10 working days	54%	52%	52%	69%	60%

### Commentary:

- The speed with which the first work session was arranged for Asian offenders and those recorded as "other" was significantly greater than for white or African/African-Caribbean offenders.
- The proportion of cases where the first appointment actually took place within 10 working days was noticeably higher for Asian offenders and those recorded as "other" than for white or African/African-Caribbean offenders.

6.32 Detailed examination of the findings of the file reading exercise showed significant variations within and between individual services:

- in West Sussex, all eight Asian offenders attended their first work placement within 10 working days and six of nine African/African-Caribbean offenders, compared to 12 of 21 white offenders
- in South Glamorgan, 13 of 21 white offenders and two of three Asian offenders attended their first work session, compared to only four of 14 African/African-Caribbean offenders
- in West Midlands, nine of 20 white offenders and 10 of 14 Asian offenders attended their first work session, compared to only four of 13 African/African-Caribbean offenders
- in Inner London, nine of 22 African/African-Caribbean and one of two Asian offenders attended their first work appointment, compared with only one of 17 white offenders.

These differences need to be explored and addressed by relevant services.

### Enforcement

6.33 The main result in table 14 shows the differences between ethnic groups in the enforcement action taken by services.

Table 14: Enforcement action taken by services (Source: HMIP file reading exercise)

	Overall 1	White	African/African- Caribbean	Asian	"Other "
Failure to comply followed up in two working days	61%	65%	56%	60%	63%
Offender's explanation clearly recorded	58%	63%	53%	59%	47%
Third unacceptable failure to comply within 12 months	43%	41%	54%	18%	27%
Breach action taken by third failure to comply within 12 months	65%	73%	63%	29%	43%
No unacceptable failure to comply	29%	31%	22%	39%	33%

**Commentary:**

- Little difference was noted between ethnic groups in relation to action taken to follow up failures to comply and recording the offender's explanation.
- The proportion of cases where there was no third unacceptable failure to comply within a 12 month period was significantly higher for Asian offenders than any other ethnic group.
- The proportion of cases where there was a third unacceptable failure to comply within a 12 month period was significantly higher for African/African-Caribbean offenders than any other ethnic group.
- The proportion of cases where breach action was taken on or before the third failure to comply was higher for white offenders than for Asian, although the significance of the finding is difficult to assess due to the very low number of relevant Asian cases.
- The proportion of cases where there was no unacceptable failure to comply whatsoever was significantly higher for Asian offenders than African/African-Caribbean offenders.

6.34 Some other differences were found in relation to enforcement practice. Where breach action was not taken on or before the third unacceptable failure to comply, the record contained a clear statement giving the reason in 57 per cent of white offenders compared to only 21 per cent of African/African-Caribbean offenders and 29 per cent of Asian offenders. The statement was endorsed by the line manager in 27 per cent of white offenders and 43 per cent of Asian offenders compared to only 13 per cent of African/African-Caribbean offenders.

6.35 Detailed examination of the sample showed some slight variations between services. Despite the attention given to the assessment of minority ethnic offenders' needs in West Sussex, only two of the six African/African-Caribbean offenders who failed to comply with the terms of their order were followed up within two working days compared to all 17 white offenders. Although the significance of this finding required further investigation by the service, it raised the question of whether staff lacked confidence in holding minority ethnic offenders accountable.

6.36 Table 15 shows the main reasons for the termination of the order for different ethnic groups.



Table 15: Enforcement of CS orders by ethnic group (Source: HMIP file reading exercise)

Proportion of cases where:	Overall 1	White	African/African- Caribbean	Asian	"Other "
Specified hours completed	77%	78%	71%	90%	79%
Sentenced for new offence and order revoked	5%	5%	6%	2%	8%
Order breached for non-compliance and revoked	14%	13%	20%	5%	8%

**Commentary:**

- A significantly higher proportion of Asian offenders completed their order satisfactorily than African/African-Caribbean offenders.
- A significantly higher proportion of African/African-Caribbean offenders were breached for non-compliance and had their order revoked than Asian offenders.

6.37 Only 40 Asian offenders were included in the sample in total and it was therefore difficult to draw firm conclusions about their high satisfactory completion rate. The highest proportion of Asian offenders subject to CS in any service was found in the sample from West Midlands and consisted of 14 offenders in total. Examination of these cases showed that:

- a risk assessment, addressing public protection, was completed in 13 of 14 cases of Asian offenders, compared to eight of 13 African/African-Caribbean offenders and 12 of 21 white offenders
- the choice of main placement took account of factors identified during the initial assessment in six of seven cases for Asian offenders, seven of eight cases for African/African-Caribbean offenders and 11 of 13 white offenders
- four of 14 Asian offenders were placed in an individual agency placement, compared to none of 12 African/African-Caribbean offenders and two of 16 white offenders
- 10 of 14 Asian offenders attended the first work session within 10 working days, compared to four of 13 African/African-Caribbean offenders and nine of 20 white offenders
- the order was completed satisfactorily by all 14 Asian offenders, compared to seven of 13 African/African-Caribbean offenders and 13 of 19 white offenders.

- 6.38 In considering the overall difference in the completion rates between Asian and African/African-Caribbean offenders, the following factors appear relevant:
- a risk assessment addressing public protection was more likely to have been completed on Asian offenders than African/African-Caribbean offenders
  - physical ability was identified by CS staff as a factor which could influence the choice of placement for a higher proportion of Asian offenders than African/African-Caribbean offenders
  - Asian offenders were more likely to be placed in an individual placement than African/African-Caribbean offenders
  - the first work placement took place within 10 working days for a significantly higher proportion of Asian offenders than African/African-Caribbean offenders.
- 6.39 It was not possible to determine exactly the various elements contributing to the high completion rate of Asian offenders compared to African/African-Caribbean offenders. In addition to the factors identified above, the appropriateness of the initial referral to CS, the quality of the supervision offered by the CS officer or sessional supervisor and the nature of the relationship between the beneficiary and the offender must form constituent parts. These matters require attention by services to ensure consistency of practice.

#### **Use of interpreters**

- 6.40 The need for an interpreter was only considered as part of the assessment in 1 per cent of cases. However, the sample included 19 cases in which a formal written warning was given and where it appeared that the offender experienced difficulty in communicating in English. In only two of these cases was it clear that formal written warnings were translated into the appropriate language. For most of the other cases the position was "not clear " from the file.
- 6.41 Despite the limited use of interpreters for offenders on CS shown by the sample, a "snapshot" survey of the CS caseload in Inner London undertaken in July 1999 indicated that 22.6 per cent of all the offenders interviewed spoke English as a second language. A significant proportion of the group identified difficulties in understanding written English. None of those interviewed expressed any sense of isolation as a result but the researcher acknowledged that they may have been reluctant

to voice any critical comment as the interviews were conducted on site.

- 6.42 Although some CS units would employ an interpreter at the commencement of the order to ensure accurate assessment and understanding on the part of the offender, the nature of CS work did not lend itself to the ongoing use of an interpreter during the course of the order. The majority of services attempted to accommodate offenders whose knowledge of English was limited by placing them with a beneficiary who spoke their first language. The vulnerability of offenders unable to speak English was recognised by a number of services who consequently discouraged the use of other CS workers as interpreters as being open to abuse.
- 6.43 Whilst acknowledging the difficulties faced by services in the supervision of offenders subject to CS whose knowledge of English was limited, HMIP were concerned that these offenders would be disadvantaged if consideration was not given to their particular requirements prior to the referral to CS and as part of their initial assessment as well as during their ongoing supervision.

#### **Racism and community service**

- 6.44 Evidence of racist attitudes and behaviour was identified from the file in only 37 of the 401 (9 per cent) cases examined. It was positive to note that action had been taken in 33 out of the 37 cases (89 per cent).
- 6.45 In Inner London, a questionnaire completed by offenders at the end of their order revealed that 6 per cent had either witnessed or experienced racist behaviour during the course of their CS order. In discussion with HMIs, CS staff voiced their anxieties about the behaviour of many of the offenders and spoke of a volatile working environment. Guidelines and procedures which had been developed by the service to assist in the identification and management of offenders whose attitudes and behaviour could place others at risk, confirmed the inspection findings of the importance of the comprehensive assessment and placement of offenders. Both staff and managers, including the ACPO, in discussion, emphasised the service's practice of recruiting staff with both the technical skills required for the job and the personal skills necessary to manage the tensions which could arise. The benefit of this approach was apparent and is endorsed by HMIP.
- 6.46 The importance of ensuring that offenders were not subject to racist abuse from external sources during the course of their

CS order was demonstrated by the experience of a number of services. Some, such as South East London and Nottinghamshire, covered communities in which political organisations widely considered as racist were known to have a strong presence and the advisability of placing offenders from minority ethnic groups to work in these areas had to be considered.

- 6.47 It was evident from discussions with both offenders subject to CS and with CS staff during the course of the inspection that the proactive stance taken by the majority of units visited played a large part in preventing the expression of racist attitudes and behaviour. The firm approach to racist behaviour on CS sites displayed by many CS supervisors was commendable but undermined by the lack of attention given to racist attitudes and behaviour during assessment and, at times, poor communication of the assessment when undertaken. These issues must be considered and actively addressed by services as an integral part of their placement and supervision in order to ensure the safety and well-being of all those engaged in CS, whether as an offender, member of staff, beneficiary or member of the public.

### Summary

- 6.48 The majority of services had developed policies or practice guidelines for CS. Of these, only a third referred explicitly to the needs of minority ethnic offenders. Inner London, Nottinghamshire, Merseyside and West Midlands were the only services of those visited to make specific reference to the needs of minority ethnic offenders in their CS policies.
- 6.49 Despite the requirement of the national standard that a risk assessment on the offender should be undertaken before a CS placement was arranged, the sample showed that no such assessment had taken place in 46 per cent of African/African-Caribbean cases compared to 27 and 20 per cent of white and Asian cases. Noticeable variations were found between services. Within the overall risk assessment, the proportion of cases where risk of harm to the public was satisfactorily assessed was higher for white offenders than for African/African-Caribbean offenders. There was, however, no significant difference between ethnic groups in the extent to which risk of reoffending was assessed.
- 6.50 The inconsistent practice in the completion of risk assessments on all offenders but especially African/African-Caribbean offenders subject to CS was a matter of grave concern, as was the lack of attention given to the assessment of racist attitudes and behaviour. A general written assessment had been

prepared on the offender by CS staff before the placement was arranged in only 77 per cent of cases overall. However, little overall difference was revealed between ethnic groups.

- 6.51 Although the choice of placement was influenced by specific factors identified during the assessment in a generally high proportion of all cases, consideration was more likely to be given to those factors with white and Asian offenders than African/African-Caribbean offenders. The latter were more likely to be placed in a workshop setting, Asian offenders in an individual placement and white offenders in a group supervised by the probation service. A noticeably higher proportion of Asian offenders completed their specified hours than either white or African/African-Caribbean offenders. A greater percentage of African/African-Caribbean offenders had their orders revoked than Asian offenders.
- 6.52 The audit showed that only 58 per cent of all services had carried out CS work for local minority ethnic community organisations. Of the services visited, Cornwall, Cheshire and West Sussex were the only services where no CS beneficiaries were from minority ethnic community organisations. A broad range of placements suitable for minority ethnic offenders was available in other services.
- 6.53 The first work session was arranged within 10 working days for a significantly higher proportion of Asian offenders than of white or African/African-Caribbean offenders. Little overall difference between ethnic groups was found regarding the enforcement action taken by services.
- 6.54 Evidence of racist attitudes and behaviour was identified from the file in only 9 per cent of cases examined. The firm approach to racist behaviour on CS sites displayed by many CS supervisors was commendable but was undermined by the lack of attention given to racist attitudes and behaviour during assessment.
- 6.55 In some services, awareness about race and ethnic origin issues was high. Inner London was considering the application of "What Works" principles to CS in which anti-discriminatory practice was seen as a central element. In Cornwall and Cheshire, in particular, the level of sensitivity and understanding to the different needs of minority ethnic offenders was disappointingly low and required action by managers.

### **Recommendations**

- 6.56 It is therefore recommended that:

*CPOs should undertake a review of CS policy and practice guidance and ensure that:*

- (a) CS assessments take account of the different needs of minority ethnic offenders;*
- (b) the potential for racist attitudes and behaviour is assessed as part of the CS risk assessment;*
- (c) decisions about the placement of minority ethnic offenders are based on risk assessment, identified needs, health and safety and individual skills;*
- (d) a range of placements are available to meet the different needs of minority ethnic offenders;*
- (e) information is collected on the ethnic origin of all beneficiaries and used to ensure that CS benefits all sections of the community.*



## 7. WORK WITH RACIALLY MOTIVATED OFFENDERS

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- 7.1 This chapter examines the work undertaken by services to implement the requirements of the Crime and Disorder Act 1998 by developing effective strategies to challenge the behaviour and attitudes of offenders convicted of racially motivated offences.

### The Crime and Disorder Act 1998

- 7.2 The Crime and Disorder Act 1998 introduced new offences of racially aggravated crime<sup>53</sup> relating to assault, criminal damage, public order offences and racial harassment. Under Section 82 of the Act, where an offence has been demonstrated to be racially aggravated, the court have to impose a higher penalty within the maximum allowable and state the reasons for doing so in open court.

### Implications of the Crime and Disorder Act 1998 for probation services

- 7.3 Research undertaken by the Home Office in 1997<sup>54</sup> indicated that there was a need for a cultural shift within the probation service if the service was to work effectively with racially motivated and racist offenders:

*"... the very culture of the Probation Service, with its strong commitment to equal opportunities and its disapproving stance on racist behaviour, appeared to mitigate against offenders ever admitting to this aspect of their offending ... offenders' racist attitudes - which were perceived to be common and reflecting normal local attitudes - remain hidden. To some extent it appeared that the probation officers welcomed this since, if an offender did display racist attitudes, they would not know what to do about it other than invoke the local disciplinary procedures for failing to respect the services equal opportunities policy."*

<sup>53</sup> For definition of racist incident and racially aggravated crime, see paragraphs 1.13-1.17 of this report.

<sup>54</sup> Home Office *The Perpetrators of Racial Harassment and Racial Violence* Research Study 176 (1997).



- 7.4 The resource pack "From Murmur to Murder"<sup>55</sup> commented:
- "If Probation Services are to work effectively with racially motivated and racist offenders then there needs to be a reassessment of the value base that informs practice, and the development of values and beliefs which are not Eurocentric and which are relevant for probation work in contemporary Britain."*
- 7.5 The Crime and Disorder Act 1998 had been drawn up within a context of increased public concern about community safety. A number of the services visited had developed policies relating to work with racially motivated offenders, some of which predated the implementation of the Act. Despite the direction given by the Act, no commonly accepted definition of a racially motivated offender existed. Cornwall, West Midlands and West Sussex were the only services to include any definition within the policy, based on guidance given by the police<sup>56</sup> or by NAPO.<sup>57</sup> Although there was a commitment to work with racially motivated offenders, few of the services had, as yet, produced the detailed guidance necessary to translate this into operational reality. All services needed to re-examine their policies in light of the acceptance of the definition of a racist incident given in the Macpherson report.
- 7.6 In Inner London, Merseyside, Nottinghamshire, West Midlands and West Sussex, a chief officer had been designated as responsible for work with racially motivated offenders. In anticipation of the Pan-London service, a strategic decision had been taken by the five London services to coordinate training in order to ensure a consistent approach to work with racially motivated offenders. A "cascade" model of training had been agreed and arrangements were in hand to identify and train staff to take the work forward. Multi-grade planning groups had been established to take the work forward in Merseyside and the West Midlands, and a forum set up in Inner London. It was apparent in the other services visited, however, that insufficient attention had been given to date to the development of practice with this group of offenders.
- 7.7 The attitude of practitioners and their awareness of the issues involved in working with racially motivated and racist offenders varied considerably across services and generally

<sup>55</sup> Midlands Training Consortium in collaboration with Midlands Association of Chief officers of Probation *From Murmur to Murder* (August 1998).

<sup>56</sup> Prior to the publication of the Stephen Lawrence inquiry report, a racial incident was defined by the Association of Chief Police Officers as "any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation, or any incident which includes an allegation of racial motivation made by any person".

<sup>57</sup> National Association of Probation Officers *Working with Racially Motivated and Racist Offenders* (1995).

reflected the approach taken by senior managers. Staff in services which had taken a proactive stance, such as Merseyside and the West Midlands, displayed a higher level of awareness but also of anxiety about addressing these issues than their colleagues in services where little work had been undertaken. This issue had been actively considered by Merseyside who, in 1998, had undertaken an audit of POs which had revealed that 30 out of the 41 staff who responded expressed fears about both their own ability to engage in such work and its emotional impact.

- 7.8 In the majority of services visited, managers described challenging racist behaviour as a core task and, as such, the duty of all staff. However, the potential for staff, particularly from minority ethnic groups to feel at risk from racially motivated offenders, was formally recognised by many services. Avon, Inner London, Merseyside and West Midlands had stated that no member of staff should be required to work with racially motivated offenders should they not wish to do so. This approach is supported by HMIP who consider that that the allocation of known racially motivated offenders should always be preceded by discussion between the SPO and proposed supervising officer to ensure the appropriateness of allocation.
- 7.9 Concerns were also expressed by staff about the approach to offenders who refused to be supervised by an officer from a minority ethnic group. This matter should be regarded as an issue of compliance. However, managers needed to be alert, from an early stage, to those cases where the offender's racist attitudes and behaviour were likely to require particular attention to support staff either in their ongoing supervision of the offender or in taking enforcement action.
- 7.10 In both Inner London and the West Midlands, early recognition of racially motivated offenders in their policy for assessment and management of risk appeared to have helped staff to regard work with racially motivated offenders as a natural extension of their role. Inner London had recently revised their risk strategy and staff were encouraged to consider the level of risk posed by the offender, the potential victim and the circumstances of the offence. South Glamorgan and West Sussex had also incorporated work with racially motivated offenders into their risk strategy. Merseyside had also given significant attention to the issue. Both Inner London and Merseyside were pilot services for the Offender Assessment System (OASys)<sup>58</sup> and

<sup>58</sup> OASys is a national system for assessing the risks and needs of an offender. The system has been jointly designed by the Prison and Probation Services for use by both services. It is a central part of evidence-based practice.

welcomed the introduction of a consistent assessment tool. Neither service believed that OASys in its current form gave sufficiently explicit attention to work either with racially motivated offenders or to offenders from minority ethnic groups. These concerns had been brought to the attention of the project group by both services and were being addressed.

- 7.11 The use of the resource pack "From Murmur to Murder" varied considerably between services. The pack provided an organisational framework in which services could begin to address the difficult and complex issues of working with racist and racially motivated offenders and it was disappointing that it had not been more widely disseminated in Cheshire, Cornwall, South Glamorgan and West Sussex. It was, however, used extensively by both managers and practitioners in other services who acknowledged its usefulness in promoting greater awareness of the prevalence of racially motivated offenders and in developing a strategic response to this aspect of work.
- 7.12 Merseyside and Nottinghamshire were the only services of those visited to have recognised the implications of work with racially motivated offenders to the wider staff group. The position of field clerical and administrative staff required particular consideration as many lived in the area in which they worked and had had the experience both of meeting offenders during the course of their daily lives and recognising individuals who reported to the office. The positive attitude of many of the clerical staff seen during the course of the inspection was encouraging. The majority expressed confidence in their ability to challenge racist behaviour. The display of anti-discriminatory notices in waiting rooms was seen as helpful by reception staff in reinforcing their authority to impose acceptable standards of behaviour.

### **Reports written on racially motivated offenders**

- 7.13 The "From Murmur to Murder" training pack stated in the introduction to the section on report writing on racially motivated offenders:

*"Until recently, one of the main objectives of probation officers writing reports ... has been to ameliorate the hardships of the penal process. This has often been achieved by uncritically accepting what an offender said about his/her offending behaviour and/or offering justifications for it. Thus it has been possible to work as a probation officer in an area in which there is extensive racially motivated crime, yet not identify specific crimes or offenders for whom this is an*

*issue. To adopt, uncritically, the aims of advising, befriending and assisting offenders who have committed racially motivated offences is to collude with their racism."*

7.14 A sample of 484 PSRs were considered. The period covered by the sample included the initial 10 months following the implementation of Sections 28-32 and 82 of the Crime and Disorder Act 1998 which introduced the new offences of racially aggravated crime. It was therefore expected that few of the reports included in the sample would have been written on offenders convicted under the Act. It was, however, envisaged that services would have become increasingly aware of the prevalence of racially motivated crime from a number of sources and it was consequently anticipated that a growing number of cases would have been identified either as racially motivated or for there to be racial overtones in the context of the offence.

7.15 It was indicated that the offence was racially aggravated in only three of the 484 reports examined. One of the defendants concerned was identified as white, one Asian and one as "other". It would clearly be inappropriate to attempt to draw any conclusions from such a small sample of reports. Although full recording of the racially aggravated offences introduced under the Crime and Disorder Act 1998 had not been implemented until 1 April 1999, the number of racist incidents recorded by the police had risen by 66 per cent during 1998/99.<sup>59</sup> However, given the absence of prosecution papers in 30 per cent of PSRs prepared on all offenders, many report writers would have been unable to undertake a thorough risk assessment or to analyse the context of the offence. The availability of prosecution papers needs to be addressed urgently by services in order that work with racially motivated offenders may be progressed.

### **The quality of work with racially motivated offenders**

7.16 A total of 183 case files on white offenders subject to a probation order were examined during the course of the inspection.<sup>60</sup> It was evident from the files that in only 15 (8 per cent) of the cases examined issues of racism had been discussed with the offender. Table 16 provides the number of cases by service

<sup>59</sup> Home Office *Statistics on Race and the Criminal Justice System - A Home Office publication under Section 95 of the Criminal Justice Act 1991 (1999).*

<sup>60</sup> For details of the total sample of probation orders see paragraph 5.6.

Table 16: Discussion of issues of racism with white offenders  
(Source: HMIP file reading exercise)

Avon	3 of 19
Cornwall	0 of 20
Cheshire	1 of 20
South Glamorgan	2 of 19
South East London	0 of 16
Inner London	6 of 18
Merseyside	2 of 20
Nottinghamshire	0 of 18
West Midlands	1 of 19
West Sussex	0 of 12

**Commentary:**

- In Inner London, racism had clearly been discussed with a third of white offenders.
- In Cornwall, South East London, Nottinghamshire and West Sussex, there was no evidence in the case files that racism had been discussed with any of the offenders.
- A further 10 (5 per cent) of the cases examined revealed evidence of racist attitudes and behaviour which was not addressed during the course of supervision.

7.17 Only one case was considered where the offence had been identified as racially motivated from the point of arrest. In other cases, concerns about the offender's underlying attitudes and behaviour had become apparent during the course of supervision. Despite the inclusion of racially motivated offending in the risk policy in South Glamorgan, Inner London, Merseyside and West Sussex, no mention was made of concern about racist attitudes or behaviour as part of the risk assessment in any of the cases examined during the course of the inspection.

7.18 It was evident from discussion with both managers and practitioners that many felt ill-prepared by either their training or previous experience to challenge and address racist attitudes in offenders, particularly when not identified at the outset. Whilst recognising these concerns as valid, services are well-placed to draw on the knowledge gained through the introduction of other new areas of work, such as with sex offenders. Based on this experience, the adoption of a clear definition of racially motivated offender by all services, provision of training and the support and oversight of managers are a prerequisite to the development of confidence in staff to undertake this work.

7.19 It was apparent that additional national guidance was required for both courts and services on the enforcement of orders on offenders whose behaviour towards their supervising officer, other members of staff or service users was considered unacceptable. Two cases in particular, from Inner London and Merseyside, were cited during the course of the inspection where the court had declined to accept an application for breach of the order on the grounds of unacceptable racist conduct. Given the likelihood of increased numbers of offenders convicted of racially aggravated crimes being made subject to supervision, services should, within the context of national guidance when available, be entering into discussion with their local courts to agree guiding principles and procedures relating to the supervision and enforcement of such orders. Agreements reached should be reflected in protocols between the service and the court.

#### **Effective practice with racially motivated offenders**

7.20 In Merseyside, a programme to work with racially motivated offenders had been developed by one of the service's SPOs. Although the work had resulted from the individual's personal commitment, it was fully supported by the service and was now central to their work with these offenders. The programme used the "What Works" principles as a framework and was divided into two modules: the first consisting of a 10 session group work programme for use in a hostel setting; the second module was composed of a number of exercises designed to build POs' confidence and skills in working with racially motivated offenders. The programme was subject to ongoing monitoring and evaluation. Discussion with staff during the course of the inspection confirmed the usefulness of the approach.

7.21 In the West Midlands, a planning group had been formed to take forward the service's long-standing concerns about racially motivated offenders. The group was led by the race equality development officer and included representatives from the police, Crown Prosecution Service (CPS) and local community groups. A consultant had been engaged to inform the work of the group. As a result of the work undertaken, a series of workshops had been held within the service and a group work programme, based on the "What Works" principles, was being developed together with an accompanying training package for staff.

7.22 The work undertaken by both Merseyside and the West Midlands was an encouraging example of the integration of the principles of "What Works" into probation practice. As previously indicated, both the Merseyside and the West Midlands service

had been disappointed at the decision to delay identification of a "Pathfinder" programme into work with racially motivated offenders pending the outcome of a research search. The ongoing contribution of both services to the effective practice initiative will not only assist in the identification of an appropriate "Pathfinder" programme but also ensure that it is developed in a context of shared understanding.

### Work with other organisations

- 7.23 In those services which had actively addressed the issue of work with racially motivated offenders, significant steps had been taken in conjunction with other organisations. For the London services, the Greater London Race Issues Forum allowed for the opportunity of discussion between all the criminal justice agencies. A Race Issues Advisory Group reporting to the Area Criminal Justice Liaison Committee provided a similar function in Merseyside and, in September 1999, presented a report outlining their commitment to work together in implementing the proposals from the Stephen Lawrence inquiry.
- 7.24 In Inner London, work was ongoing in the districts of Merton, Tower Hamlets, Hounslow and Greenwich as part of a police initiative to target racially aggravated crime in which the service had a significant role. In Nottinghamshire, the service had been approved as a "racial incident reporting centre" introduced as part of a multi-agency initiative to monitor the prevalence of racist incidents. These positive developments highlighted the importance of multi-agency collaboration in addressing racial harassment.
- 7.25 In Inner London, Nottinghamshire, Merseyside and West Sussex, work with the perpetrators of racist crime had been given greater prominence by its inclusion in the local crime safety and crime reduction strategy. The services concerned had been able to make a unique contribution to the work of the local authorities to tackle racial harassment and racially aggravated crime in the area by the provision of statistical data; for example, a breakdown by race and ethnic origin of the victims of serious crime living in the area, as well as through direct work with the offenders. In the words of one of the London ACPOs:

*"Sometimes we are coming to the table with information which no one else has."*

## Summary

- 7.26 A number of the services visited had developed policies in relation to work with racially motivated offenders. Despite the direction given by the Crime and Disorder Act 1998, no commonly accepted definition of a racially motivated offender existed among services. Although there was a commitment to work with racially motivated offenders, few of the services had, as yet, produced the detailed guidance necessary to translate this into operational reality. All services needed to re-examine their policies in light of the acceptance of the definition of a racist incident given in the Macpherson report.
- 7.27 A significant amount of work had been undertaken by some services, most notably Merseyside and West Midlands, to advance work with racially motivated offenders. These services were contributing to work led by the Home Office in the development of effective practice in work with racially motivated offenders. Inner London and South East London were working together with the other London services to provide a consistent approach to racially motivated offenders across the five services through the coordination of training.
- 7.28 Other services had not responded in such a positive or proactive manner. The varied use made of the resource pack "From Murrmur to Murder", which provided a coherent framework within which services could develop an organisational response to work with racially motivated offenders, was regarded as symptomatic of the failure of some services to give sufficient priority to this important area of work and to take advantage of the resources available to them.
- 7.29 There was little evidence in the case files of white offenders of any work being undertaken to assess and address racially motivated offending. Some services had incorporated racially motivated offending into their risk strategy but the risk assessments examined contained no reference to concerns about offenders' racist attitudes and behaviour.
- 7.30 Work with racially motivated offenders had been given greater prominence in certain areas by its inclusion in the local crime safety strategy. A number of services had entered into multi-agency initiatives to tackle racially motivated incidents and offending. Such innovative partnerships are commended and to be encouraged.
- 7.31 The implications of work with racially motivated offenders for the wider staff group, particularly reception and clerical staff, had been considered by few of the services visited and needed to be both recognised and addressed by all services.



### **Recommendation**

7.32 It is therefore recommended that:

*Probation committees and CPOs should adopt the definition of a racist incident in the Macpherson report and produce revised policy and practice guidance to ensure the effective supervision of racially motivated offenders.*



## 8. LINKS WITH THE WIDER COMMUNITY

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- 8.1 This chapter examines the extent to which the probation service works collaboratively with voluntary and statutory organisations to promote race equality.

### Context

- 8.2 The probation service, itself originating from the Police Court Missionary Society, has a long history of collaboration with voluntary and statutory organisations at both a local and national level. Since 1989, grants have been available through the Home Office to voluntary sector projects to work in partnership with probation services in the supervision of offenders. The Criminal Justice Act 1991 gave probation committees power to grant-aid local independent organisations. A requirement was placed on all services to develop plans to work in partnership with voluntary and private sector organisations as part of a coordinated strategy for the supervision of offenders in the community<sup>61</sup> and to spend 5 per cent, later to increase to 7 per cent, of their revenue budget on such arrangements.

- 8.3 The Crime and Disorder Act 1998, in placing a legal duty on the police and the local authority to work together with other organisations including probation services, to develop community safety strategies, created a structure for local agencies to agree priorities and establish appropriate arrangements for funding projects. The importance of the involvement of the local community in a "multi-stakeholder" approach was emphasised in the Macpherson report which recommended:

*"That in creating strategies under the provisions of the Crime and Disorder Act or otherwise, Police Services, local Government and relevant agencies should specifically consider implementing community and local initiatives aimed at promoting cultural diversity and addressing racism and the need for focused and consistent support for such initiatives."*

<sup>61</sup> Home Office *Partnership for Dealing with Offenders in the Community* (July 1992).

### Probation services' work with local communities

- 8.4 The development of community safety strategies, following the implementation of the Crime and Disorder Act 1998, had renewed the commitment of all statutory agencies to work together in partnership with local community groups. In some services, long-standing arrangements were already in place for agencies to promote together race equality work. Others were actively linking in to new initiatives to tackle racial harassment as part of the developing framework of community safety strategies.
- 8.5 In Avon, the importance of work with other organisations and the community "*in order to redress the effects of racial disadvantage and injustice currently operating in the Probation Service, Criminal and Civil Justice Systems*" was recognised in its anti-racism strategy. A structure, known as Partners Against Racial Harassment (PARAH), which had been established by the police following the disorders in Bristol to promote race equality, was already in existence to provide a framework for liaison between criminal justice organisations and the Bristol Race Equality Council (REC). The service was also represented on the four RECs operating within the area but had had difficulty in maintaining a consistent presence and, as a consequence, was regarded with ambivalence by some of the minority ethnic representatives.
- 8.6 Although no formal statement had been made by the CPO in Inner London, a commitment to working in partnership with others was integral to the strategy outlined in the annual report. The service's work with other organisations in the promotion of race equality had been identified as one of the areas for consideration by the Race Issues Advisory Group. The service was represented on a number of groups covering the Greater London area. Its involvement with other agencies varied, however, according to the level of collaboration at a borough level. In a number of boroughs, the service was making a significant contribution to the development of the community safety strategies including positive initiatives to address racially aggravated crime.
- 8.7 In Merseyside, the need to work in partnership with community-based organisations to promote race equality was emphasised by the CPO in his report to the probation committee following the publication of the Macpherson report. Multi-agency collaboration on race issues had been promoted for a number of years through the Merseyside Multi-Agency Steering Group against Racial Attack and Harassment (MMASGARAH) on which the service was represented by the deputy chief probation officer (DCPO). The issue of racially motivated offending was also

being addressed by four of the five local authorities within the area.

- 8.8 In West Midlands, an objective to develop partnerships to promote race equality was included in the 1999/00 business plan. It aimed to provide, where possible, "*partnerships which enhance service delivery to African, Caribbean and Asian offenders and the clients of family court welfare services and make best use of independent groups within the community*". The commitment to collaboration was further endorsed by the Acting CPO in his statement responding to the Stephen Lawrence inquiry. As in Inner London, the service's involvement with other agencies varied according to the structures operating within the different local authority areas. Although there was evidence of positive work being undertaken by individual ACPOs, the absence of any probation service forum for debate was one of the frustrations expressed by representatives of partner organisations and local community. Although the existence of these initiatives was positive, all needed to be further developed.
- 8.9 In other services, links with local community groups appeared to have developed on an *ad hoc* basis as the result of an individual initiative as in Nottinghamshire, or through the local REC as in South Glamorgan, South East London and West Sussex, rather than as part of a coordinated strategy.
- 8.10 The lack of active consideration given to the establishment of links with local minority ethnic groups in Cheshire and Cornwall was of particular concern. Despite the low percentage of minority ethnic people living in both these areas, community groups were found during the course of the inspection to exist, despite statements by both services to the contrary. The failure in Cornwall either to contribute to or to take advantage of the work being progressed by the Rural Race Equality Project<sup>62</sup> was particularly worrying.
- 8.11 It was apparent from discussion with representatives from community groups that all services had considerable work to do to improve their standing and to gain the confidence of the local minority ethnic community, both in terms of its work with offenders and as a potential employer. Although perceptions varied, common themes emerged and it was apparent that the

<sup>62</sup> Mohammed Dhalech *Challenging Racism in a Rural Idyll* - Final Report of the Rural Race Equality Project Cornwall, Devon and Somerset 1996/98 National Association of Citizen's Advice Bureaux (July 1999). The overall aim of the project was to improve services, including access to services, to minority ethnic people living in the South West. Emphasis was also placed on working collaboratively with other agencies in the development and implementation of policies to ensure the development of a strategic approach to race equality in an area in which it had been ignored for many years.

representatives interviewed from the local minority ethnic community saw the probation service as an institutionally racist criminal justice organisation. The main criticisms voiced by minority ethnic groups about probation services can be summarised as follows:

- the absence of a strategic vision about community engagement
- the failure to communicate effectively with local community groups and the absence of any forum to do so
- frequent changes in personnel with responsibility for the promotion of race equality were considered to inhibit communication and perceived as evidence of services' lack of commitment to the issue
- the failure to recruit from minority ethnic groups and the absence of positive action measures.

8.12 One organisation, the "Cariba" project in West Midlands, summarised the views expressed by many organisations in a letter sent to HMIP following the inspection:

*"There should be more liaison conferences with the probation service and the community in order for both sides to work more closely together and also complement each other, not for one party feeling as though they are big brother and the other is a "Do as I say" organisation. I believe it is a fact if you take away all the voluntary organisations from working with the probation service then the agency will not cope by itself. We know how the grass roots work, where probation officers coming in and out of a town area into a new area would not know the community as well as we locals."*

### **Work with partner organisations**

8.13 The audit undertaken of all services revealed that 32 had not allocated any part of their partnership budget to projects specifically targeted at minority ethnic service users. The proportion of the partnership budget allocated to work with minority ethnic service users was above 5 per cent in only three of services, the highest being 7.9 per cent in Middlesex. The amount allocated varied considerably from £500 to over £100k. The audit showed that 20 of the 52 services (38 per cent) also made some form of financial provision to minority ethnic groups outside the formal partnership budget.

8.14 Inner London, South East London, West Midlands and West Sussex were the only services visited to have funded partnerships arrangements with local minority ethnic community groups to

enhance the supervision of minority ethnic offenders. The most extensive use was made in the West Midlands whose annual expenditure for work with minority ethnic groups comprised 11.8 per cent of the partnership budget. The partnerships established by West Sussex with the Foreign National Prisoner Support Group and Inner London with the Greenwich Vietnamese Society, provided valuable resources and enabled these services to address the particular needs of a small group of offenders. It was disappointing that other services had not established similar arrangements.

8.15 Although Avon had not established any formal partnerships with minority ethnic groups, it had been particularly successful in developing a number of arrangements with local minority ethnic groups. These included:

- Growing Together Project, funded by Single Regeneration Budget (SRB) and European Social Fund (ESF) and run by Bristol City Council to provide 12 months paid training in horticulture and leisure to CS offenders from minority ethnic groups
- a proposal submitted to the employment service to access funding from the New Deal programme to increase the number of offenders from minority ethnic groups to provide an integrated provision with specialist organisations within the minority ethnic community.

8.16 Representatives from minority ethnic groups with whom services had established partnerships emphasised the need for a culturally sensitive approach to be adopted. Many considered that the criteria established were too stringent for some small voluntary organisations and the process of applying for funding was experienced as time-consuming and over-complicated. Smaller organisations, with few personnel, met with particular difficulties. The importance of working together was, however, continually emphasised by the majority of minority ethnic representatives and many felt that services frequently underestimated the value of their contribution, as expressed in the comment:

*"You can't fund everything, but now and again to play a part in something you are really interested in can mean a lot."*

8.17 The valuable contribution that can be made by local community groups cannot be overemphasised. The inspection revealed a lack of awareness amongst community groups of the plans of probation services to achieve race equality including multi-agency initiatives. Discussion with representatives indicated their commitment to working alongside statutory organisations and with the probation service in the rehabilitation of offenders. Services needed to ensure that there was appropriate

consultation and communication with local minority ethnic communities in devising strategies and their implementation, drawing on their experience and expertise.

### Summary

- 8.18 In Avon and Merseyside, long-standing arrangements were already in place for agencies to promote together race equality work. Other services, for example Inner London, were actively linking in to new initiatives to tackle racial harassment as part of the developing framework of community safety strategies. All these initiatives were positive but needed to be further developed. In other services, links with local community groups appeared to have developed on an *ad hoc* basis rather than part of a strategic initiative, or to be confined to contact through the local REC. The lack of active consideration given to the establishment of links with local minority ethnic groups in Cheshire and Cornwall was of particular concern.
- 8.19 It was apparent in discussion that representatives from local minority ethnic community groups saw the probation service as an institutionally racist criminal justice organisation. All services had considerable work to do to improve their standing and gain the confidence of the local minority ethnic community, both in terms of its work with offenders and as a potential employer.
- 8.20 The audit undertaken of all services revealed that 32 had not allocated any part of their partnership budget to projects specifically targeted at minority ethnic service users. However, 20 of the 52 services (38 per cent) had made some form of financial provision to minority ethnic groups outside the formal partnership budget. Inner London, South East London, West Midlands and West Sussex were the only services visited to have funded partnerships arrangements with local minority ethnic community groups to enhance the supervision of minority ethnic offenders. Although Avon had not established any formal partnerships with minority ethnic groups, it had been particularly successful in developing a number of arrangements with local minority ethnic groups. Representatives from minority ethnic groups with whom services had established partnerships emphasised the need for a culturally sensitive approach to be adopted.
- 8.21 The valuable contribution that could be made by local community groups cannot be overemphasised. Discussion with representatives indicated their commitment to working alongside statutory organisations and with the probation service in the rehabilitation of offenders. Services needed to ensure that



there was appropriate consultation and communication with local minority ethnic communities in devising strategies and their implementation, drawing on their experience and expertise.

### **Recommendation**

8.22 It is therefore recommended that:

*Probation committees and CPOs should demonstrate that, as part of service strategies to meet the different needs of minority ethnic offenders, the development of formal and informal partnerships has been informed by the advice and expertise of local community groups.*



## 9. EQUAL OPPORTUNITIES POLICY AND ANTI-RACISM POLICY

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9.1 This chapter considers the efficacy of services' equal opportunities and anti-racism policies in addressing institutionalised racism.

### Equal opportunities policies

9.2 The legislation of the 1970s, in particular the Race Relations Act of 1976, had focused attention on the importance of eliminating discrimination in the recruitment and selection of staff. The Code of Practice issued by the CRE<sup>63</sup> in 1984 stated that:

*"Responsibility for providing equal opportunity for all job applicants and employees rests primarily with employers. To this end it is recommended that they should adopt, implement and monitor an equal opportunity policy to ensure that there is no discrimination and that equal opportunity is genuinely available."*

9.3 The first three year plan for the probation service, published in 1992, listed *"achieving equality of opportunity throughout the service and all its activities"* as one of the four management goals for the service. The plan required each service to have a stated equal opportunities policy and to ensure that it was effectively monitored and reviewed. Objectives set for the service in the subsequent three year plan for 1994/97 included:

- the achievement of 100 per cent coverage of race and ethnic monitoring of staff and caseload
- the use of information to monitor the implementation of the equal opportunities policy
- to encourage services to address any imbalances in service delivery.

<sup>63</sup> Ibid, see footnote 8.

## Contents of the equal opportunities policy

9.4 The CRE, in an information pack produced for employers,<sup>64</sup> described an equal opportunities policy as the framework required to underpin specific measures aimed at ensuring equality of opportunity for present and future employees. It continued:

"Good policies:

- contain a **short, clear statement** of the organisation's commitment to achieving and maintaining, within the framework of the law, a workforce which represents, as far as practicable, the composition of the population and the recruitment area
- have the **strong, visible support** of top management
- set our **clear objectives** which enable priorities for action to be identified and an effective programme to achieve them to be implemented
- are **explicit and measurable.**"

9.5 The audit showed that, with the exception of Avon who had produced a "statement", all services had an equal opportunities policy. Information obtained from the ACOP review of policies for equality of opportunity<sup>65</sup> indicated that the majority (91 per cent) did not give priority to any particular form of discrimination. According to the audit, the policy had been:

- approved by the probation committee in 52 out of the 53 services (98 per cent)
- contained an action plan in 28 out of the 51 services (55 per cent).

9.6 The extent to which different aspects of organisational practice were addressed by the equal opportunities policy differed between services. The audit revealed that:

- 51 covered the recruitment and retention of staff
- 43 included training
- 39 addressed staff development and 38 career progression
- 28 referred to the supervision of staff and appraisal
- 25 considered discipline and grievance.

<sup>64</sup> Commission for Racial Equality *Equal Opportunity - Ten Point Plan for Employers* (1993).

<sup>65</sup> Association of Chief Officers of Probation *Review of Probation Service Policies of Equality of Opportunity* (May 1999).

- 9.7 The range of issues addressed in the policies of the services visited varied considerably. Although the majority covered recruitment, it was difficult to identify any other core element apart from a commitment to equal opportunities. In addition to the different aspects of organisational practice such as recruitment and staff development, a number also referred to work with offenders within the context of the equal opportunities policy. Issues covered included: equality of access to specialist services and facilities; the provision of interpreters; links with partner and other community-based organisations as well as challenging the racist behaviour of some offenders.
- 9.8 It was apparent from examination of the equal opportunities policy documents, supplied by the 10 services, that they also took a variety of forms. Few addressed the criteria specified by the CRE. In Cheshire, the policy was extremely brief but made reference to other supporting documents. Others, as in Inner London, Merseyside and West Sussex, were far more substantial documents with supporting codes of practice on employment issues and work with service users. The policy developed by Inner London had been in effect since 1988 and was, on first sight, a comprehensive document. However, it had not been reviewed since 1994 and a number of its provisions, including those in the section on "Objective Setting and Targeting", had not been implemented. Similarly, the requirement on the CPO to report annually to the probation committee on the policy's implementation had not been met consistently.
- 9.9 Nottinghamshire was the sole service visited to have established a framework to support the implementation of the equal opportunities policy. A "Standard of Equality of Service and Provision" had been developed by the service, based on work undertaken by the CRE in the production of standards for race equality in local government. The standard identified five areas for action and established three levels in each area. An implementation plan had been developed to move the service from the first to the third level within a five year timescale which, although it lacked specific, measurable objectives necessary to translate it into operational reality, provided the service with clear guidelines for the way forward. The five areas were: policy and planning, service delivery and customer care, employment (recruitment and selection), employment (developing and supporting staff), and marketing and public image.
- 9.10 The inclusion of positive action measures, as a strategic response by services to the under-representation of minority ethnic staff within the service, was also considered as part of

the inspection. Probation committee members and chief officers in all the services visited expressed concern about the need for an ethnically diverse work force. All commented on the difficulties of recruiting members of staff from minority ethnic groups. Particular concern was expressed in Inner London and West Midlands at their lack of success in recruiting Asian applicants. Other services, such as Merseyside and Nottinghamshire, commented on the need to recruit clerical and administrative staff from minority ethnic groups.

- 9.11 South East London, Nottinghamshire and West Sussex were the only services of those visited to refer to positive action initiatives as part of their equal opportunities policies. In addition, level 2 of the equality standard established by the Nottinghamshire service for the employment and selection of staff referred to the need to encourage applications from groups of people who were under-represented in the workforce. There was no evidence, however, that these statements had been translated into action or that their achievement was being monitored in the three services.
- 9.12 It was positive to find that both Merseyside and West Midlands had implemented positive action measures as part of their annual staff development plans for existing minority ethnic staff to develop their potential as employees and thereby improve their prospects of promotion. However, the absence of any clear link between their annual business plan, staff development plans and equal opportunities policy confirmed the impression given of the equal opportunities policy as an aspirational statement rather than a strategic response by the service.
- 9.13 Despite the emphasis placed on strategic planning within the probation service, it was of concern to note from information obtained from the audit of all services that only 55 per cent of services had developed an action plan as an integral part of the equal opportunities policy. Furthermore, the review undertaken by ACOP<sup>66</sup> indicated that only 25 per cent of all services had action plans specifically addressing race issues. The benefits of an action plan as good business practice enabling equal opportunities to be tackled like any other management task was emphasised by the CRE<sup>67</sup> in their advice to employers on the subject.
- 9.14 In West Midlands, the annual business plan included a section on equal opportunities with specific, measurable objectives. The service was the only one of those visited to have developed an action plan with agreed outcome measures which reflected the

<sup>66</sup> Ibid, see footnote 65.

<sup>67</sup> Ibid, see footnote 64.

aims of the equal opportunities or anti-racism policy. Their absence in the majority of services reflected badly on the leadership provided by the CPO and probation committee and reinforced the impression given of the policies as statements of intent rather than AS part of a dynamic process of change. It was therefore unsurprising that many staff seen during the course of the inspection were sceptical of their service's commitment to change.

#### **Staff views**

- "My view is that we have become complacent."
- "Good on recruitment but could be more effective on training, development and promotion."
- "Service does not appear to recognise and support different ethnic staff. Tends to lump everyone together as black and appears to ignore the needs of staff who do not come under this category."
- "Services uses outcomes as measures. Where are the measurable outcomes for its equal opportunities policies?"
- "To my knowledge, the Probation Service has been the first institution to attempt to confront and address issues and impact of racism. This initiative came from the bottom up. The service must be commended and acknowledged for its efforts. However, my view is that it has been easier to examine and acknowledge racism and inequality from without and to become smug about the progress. Personal attitudes and mindset must be forwarded: some staff have been allowed to maintain their personal views as is they are private and do not impinge on outlook and practice."
- "Policy acts as a deterrent to combat discriminatory practice though it is not often used to its full capacity."
- "Looks good on paper but in practice not workable."
- "Re-examine its recruitment policies and more actively ensure balanced racial/gender mix, particularly in specialisms."
- "White and Black colleagues need to take the issue on board and show real commitment to tackling the problem. In my opinion, the service appears to address race equality but when it comes down to action at an individual level, it responds in a lacklustre fashion."

9.15 Table 17 shows the proportion of minority ethnic staff who responded to the questionnaire who considered their service's equal opportunities policy to be effective.<sup>68</sup>

Table 17: View of minority ethnic staff of the effectiveness of their service's equal opportunities policy\* (Source: Response to staff questionnaire)

	<b>Excellent</b>	<b>Good</b>	<b>Not satisfactory</b>	<b>Poor</b>
<b>All services</b>	<b>6 (4%)</b>	<b>47 (30%)</b>	<b>69 (44%)</b>	<b>35 (22%)</b>
Avon	0 (0%)	1 (20%)	3 (60%)	1 (20%)
Inner London	3 (4%)	23 (31%)	36 (48%)	13 (17%)
South East London	1 (20%)	0 (0%)	1 (20%)	3 (60%)
Merseyside	0 (0%)	1 (12%)	4 (44%)	4 (44%)
Nottinghamshire	0 (0%)	3 (23%)	7 (54%)	3 (23%)
West Midlands	2 (4%)	17 (38%)	16 (36%)	10 (22%)

<sup>68</sup> Responses to the questionnaire were received from a third of all minority ethnic staff employed by the 10 services visited. For details of the questionnaire and response rate of staff by service, see Appendix 2. Also see paragraph 1.8 of this report.

Cheshire/South Glamorgan/ West Sussex	0 (0%)	2 (40%)	2 (40%)	1 (20%)
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\* The responses from Cheshire, South Glamorgan and West Sussex have been grouped together as these three services each employ less than 10 members of staff from minority ethnic groups. No response was received from Cornwall. Percentage figures are shown for ease of reference but for most services the numbers are too small for precise analysis.

#### **Commentary:**

- Only 53 of the 157 respondents (34 per cent) considered their service's equal opportunities policy to be satisfactory.
- West Midlands was the only service where more than 40 per cent of the respondents were satisfied with the effectiveness of their service's equal opportunities policy. In Avon, South East London and Nottinghamshire, the proportion was considerably lower.

#### **Anti-racism policies**

9.16 Avon, Merseyside, Nottinghamshire and West Midlands were the only services to have adopted a clear definition of racism. Others referred to the definitions of direct and indirect discrimination and victimisation as given in the Race Relations Act 1976. The definition used by Avon in its racial harassment policy and procedure, although written in 1992, encapsulated the definition adopted in the Macpherson report and referred to physical and verbal abuse, derogatory comments, graffiti and differential treatment. The definition of racism adopted by Nottinghamshire was taken directly from the Macpherson report. All the services visited had considered definitions of racism in relation to service delivery but had not acknowledged the implication of the definition when applied to staffing and personnel matters.

9.17 The development of discrete anti-racism strategies was strongly endorsed by the CPC in 1994 in their review of race issues within the probation service.<sup>69</sup> The rationale for the development of a separate anti-racism policy was summarised in the report<sup>70</sup> of an investigation undertaken on behalf of the West Midlands Probation Service which stated that:

*"In a largely white organisation particular disciplines and strategies are needed to ensure that anti-racist policies receive adequate priority."*

<sup>69</sup> Central Probation Council *A Review of Policy on Race Issues in the Probation Service* (1994).

<sup>70</sup> David Divine *Towards Real Communication* (1989).



- 9.18 Although the audit showed that 58 per cent of services had anti-racism policies in addition to equal opportunities policies, Avon, Cornwall, South East London and West Midlands were the only four services visited during the course of the inspection to have produced separate policies.
- 9.19 The anti-racism strategy adopted by Avon in 1992 had been influenced and informed by a number of events at both a local and national level. The statutory and voluntary agencies in the area had responded to the Scarman Report into the riots in the St Paul's district of Bristol and other cities in the early 1980s by the development of a partnership approach in which the then CPO had played a prominent role. The strategy produced by the service was a discursive document which addressed difficult and pertinent issues in a sensitive and informed way but was never fully implemented by the service or formally reviewed.
- 9.20 The strategies produced by the Cornwall, South East London and West Midlands services were more specific. The race issues policy introduced by Cornwall in 1995 constituted a vision statement for the service and committed the organisation as a whole to pursuing fairness and race equality. In addition, an anti-racist strategy had been introduced in 1999 but was to be revised in light of the findings of the Macpherson report and the thematic inspection.
- 9.21 The West Midlands had adopted an anti-racism policy as early as 1989 which was based on three objectives:
- all involved in the work of the service would have the skills, motivation, competence and experience for the task of tackling racism and racial discrimination
  - minority ethnic people would be employed at all levels within the service in proportion to the local population
  - services to offenders would be provided on the basis of individual need and circumstance.

The policy placed responsibility on a DCPO for the review of the policy but no mechanism had been established for its implementation.

- 9.22 The rationale given by those services visited who had not developed a separate anti-racism policy was that their commitment to race equality was reflected in their equal opportunities policy. Even where no separate strategy existed for race issues, the majority of the services visited had, however, developed discrete policies to deal with specific aspects of organisational practice and service delivery, such as racial harassment and work with racially motivated

offenders. Detailed examination during the inspection of the range of policy documents which addressed race issues developed by individual services suggested that they had evolved incrementally and, in some instances, had not been cross-referenced.

9.23 In order to ensure that issues of race were not subsumed within the overall equal opportunities policy, functional responsibility for the promotion of race equality within the Inner London, Merseyside, Nottinghamshire and West Midlands services was considered a discrete area and held by an individual chief officer. Elsewhere, the responsibility for both equal opportunities and race was held by one chief officer, and in South East London the CPO. Where the responsibility for implementation of the equal opportunities policy and the promotion of race equality was divided between two chief officers, as in Inner London, Merseyside, Nottinghamshire and the West Midlands, close liaison was required to ensure coordination of policy implementation and clear lines of accountability.

9.24 The approach adopted by each service was, to a large extent, dictated by its history as well as its size and structure. Although there was no indication that any particular model was more successful than any other, HMIP considered crucial factors to be the existence of a strategic policy, supported by an action plan with specific measurable objectives and the identification of a senior manager with overall responsibility for its implementation.

### **Implementation of the equal opportunities policy and anti-racism policy**

9.25 The importance of the probation committee's role in overseeing the implementation of the provisions of the policy for equality of opportunity was identified by the CPC<sup>71</sup> in 1994. In a review of race issues within the service, CPC suggested that all probation committees should issue a statement confirming their ownership of the policy and acknowledging the responsibility for its implementation. The review recently undertaken by ACOF<sup>72</sup> also emphasised the importance of the role of the probation committee in the promotion of equality of opportunity.

9.26 According to the audit undertaken of all services, the equal opportunities policy had been established in consultation with:

<sup>71</sup> Ibid, see footnote 69.

<sup>72</sup> Ibid, see footnote 65.

- staff in 37 out of 40 services who responded to the question
- support groups for minority ethnic staff in 18 of the 27 services with such groups
- the relevant unions in 33 out of 39 services
- partner organisations in seven out of 38 services
- other groups such as the local RECs in four instances, community advisory groups in three cases and the CRE in two.

9.27 The ACOP review found that 38 per cent of the services who responded had not reviewed their equal opportunities policy within the past two years and 20 per cent had no plans to do so. Only 55 per cent provided an annual monitoring report to the probation committee on the implementation of the policy. Given the absence of any form of action plan to implement a significant number of the policies, the failure both to review and monitor the policy is hardly surprising. It was therefore difficult to see how many probation committees could claim that equal opportunities was a priority and meet their obligations as employers to prevent unlawful discrimination.

9.28 It was evident that the failure to include an action plan with specific outcome measures had seriously hindered the successful implementation of the equal opportunities policies in all the services visited. Cornwall, Cheshire and South Glamorgan were the only services to have established a structure for reviewing each of their policies sequentially and reporting to the probation committee. In Inner London and Nottinghamshire, no recent review had been undertaken of the policy. Reference was made in South East London, Merseyside and West Midlands to different groups established with the intent of monitoring service compliance with the equal opportunities policy and anti-racism policy where one existed. It was openly acknowledged, however, that the role and function of these bodies needed urgent revision as they were no longer considered to be effective.

9.29 The majority of services' current annual business plans were centred solely around the priorities established by the Home Office for the probation service and, as such, did not promote race equality. West Midlands was the only service visited to devote one section of its annual business plan to equality of opportunity. Under the heading "Achieve High Quality, Fairness and Best Value for Money making use, where appropriate of Partnerships with other Statutory Agencies and the Private and Voluntary Sectors", the service had identified objectives relating to equality of opportunity in service delivery and

staff management and training. Individual managers had been given responsibility for specific required actions.

- 9.30 The inclusion of race equality targets within the annual business plan clearly made it far easier to hold managers to account for their implementation, provided that the appropriate arrangements for monitoring were in place. The chief officers responsible for race issues and equal opportunities in West Midlands had both been set objectives directly related to the targets established in the service's business plan. In Avon and South East London, the probation committee had set personal objectives for the CPO related to race equality as part of the performance appraisal process.
- 9.31 The amount and quality of information presented to the probation committee on the implementation of the equal opportunities policy and anti-racism policy varied considerably across the 10 services visited. A significant number of services did not present any information on race issues whatsoever. In Avon, despite the absence of a formal policy, a report, entitled "Equal Opportunities: Race, Gender and Disability" which commented on the workload, the staffing establishment and any training initiatives was presented to the probation committee annually. Similarly in South Glamorgan and Nottinghamshire, information on the staff establishment was discussed annually. In Inner London, quarterly reports were presented on the service's workload which contained details on race and ethnic origin. In West Midlands, each report submitted included a section on equal opportunities. Information collated on service delivery issues was also broken down according to race and ethnic origin. It was difficult to establish a connection in the majority of services between the equal opportunities and anti-racism policies, the information contained in the statistical reports presented to the probation committee, action taken by the service and any desired outcome. No attempt was made in the majority of services to analyse the information available in order to review the implementation of the policy and the service's progress in achieving race equality.
- 9.32 In all the services visited, senior managers had been given responsibility for the implementation of the equal opportunities policy. Ownership of the equal opportunities and anti-racism policies depended to a significant extent on the culture of the service and whether specific targets had been set by which managers could be held to account for their implementation. The development of a shared understanding across the service about the promotion of race equality was also important, hence the significance of the training currently being undertaken by the entire Merseyside service led

by the CPO. The existence of support groups for minority ethnic staff assisted the process whilst empowering those members of staff to challenge as appropriate.

### Cost implications

- 9.33 It was not surprising in light of the absence of any form of action plan or outcome measures relating to the equal opportunities policy that none of the services visited had made any explicit attempt to cost its overall implementation. Information on the calculation of any potential cost, when provided by services, tended to focus on specific aspects of practice, such as the provision of interpreters as in Inner London, or the percentage of the partnership budget spent on projects specifically for minority ethnic offenders. In Merseyside, the staff development plan included an objective to achieve above average expenditure *per capita* on training for minority ethnic staff. It was apparent that as equal opportunities was not integrated into all service activities and not, therefore, regarded as core work, little consideration had been given by the majority of services to resourcing the policy. The cost implications of the measures required to implement the policy successfully should be assessed and, if agreed, met as with any other mainstream activity.

### Summary

- 9.34 It was positive to note that most services had developed equal opportunities policies. The range of issues addressed in the policies of the services visited varied considerably. Although the majority covered recruitment, it was difficult to identify any other core element apart from a commitment to equal opportunities. A number referred to positive action measures but these were mainly limited to the phrasing and placing of advertisements. South East London, Nottinghamshire and Merseyside were the only services to endorse the importance of positive action measures in their equal opportunities policy but there was no evidence to suggest that these statements had been translated into action. Merseyside and West Midlands had implemented initiatives aimed at minority ethnic staff through their staff development plan but these were not referred to as part of the equal opportunities policy. Only 34 per cent of respondents to the staff questionnaire considered their service's equal opportunities policy to be satisfactory.
- 9.35 Some services had also introduced anti-racism policies with the express intention of giving additional focus to race. There was

no evidence from the inspection to suggest that the promotion of race equality had been assisted by the development of specific anti-racism strategies in their current form. The failure to cross-reference the different policies developed by individual services to address race and equal opportunities inevitably resulted in inconsistencies and, on occasion, the establishment of incompatible procedures.

- 9.36 Given the absence of any form of action plan to implement a significant number of the policies, the failure both to review and monitor policy was hardly surprising. The amount and quality of information presented to the probation committee on the implementation of their equal opportunities and anti-racism policies varied considerably from service to service. It was difficult to see how many probation committees could claim that equal opportunities was a priority and were meeting their obligations as employers to prevent unlawful discrimination.
- 9.37 It was difficult to estimate the impact of both the equal opportunities and anti-racist policies in the absence, in any service, of a supporting action plan with agreed outcome measures. It was apparent that, in the absence of an action plan, services were unable to assess any change or improvement in their practice or procedures. Given the wide range of organisational practice and service delivery covered by the policies, they should have had a major impact. The failure of many services to review and update the policies, or to make use of the information available on race issues, was seen as symptomatic of the low importance given to equal opportunities and needed to be addressed as a matter of urgency.

### **Recommendations**

- 9.38 It is therefore recommended that:

*Probation committees and CPOs should ensure that, in order to promote race equality:*

- (a) all existing equal opportunities and anti-racism policies are reviewed, and amended as appropriate, to ensure that they cover the full range of employment practices and work with offenders;*
- (b) action plans are produced which include specific measurable objectives to support the implementation of the policies;*
- (c) equal opportunities policies, anti-racism policies and related action plans are monitored and reviewed annually by the probation committee.*

## 10. RECRUITMENT

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10.1 This chapter examines the processes adopted by services to recruit suitably qualified staff and considers the actions required to meet the targets set by the Home Secretary.

### **The legislative framework**

10.2 The Race Relations Act 1976 made it unlawful to discriminate against a person, directly or indirectly, in the field of employment. The Act referred to:

- direct discrimination
- indirect discrimination
- victimisation
- positive action.

10.3 In April 1984, the CRE published a Code of Practice<sup>73</sup> with the intention of providing practical guidance to employers on the provision of the Act to assist them in implementing policies to eliminate racial discrimination and to promote equality of opportunity. Although the Code itself did not introduce any legal liabilities, its provisions were admissible in evidence in any proceedings under the Act brought before an employment tribunal.

### **Employment targets set by Home Secretary for the recruitment, retention and career progression of minority ethnic staff**

10.4 On 28 July 1999, as part of the government's commitment to race equality in employment, the Home Secretary announced targets for the recruitment, retention and career progression of minority ethnic staff within the Home Office, including the probation service. The employment targets covered a 10 year period with milestones in 2002, 2004 and 2009 and were designed to promote significant change in the staff profile of the services concerned. Regional employment targets, based on those announced by the Home Secretary as a minimum, were set for the overall levels of minority ethnic staff within the probation service. Details of the targets are given in table 18.

<sup>73</sup> Ibid, see footnote 8.

Table 18: Regional targets for minority ethnic representation in probation services  
 (Source: Report to Home Secretary - Race Equality - Developing Minority Representation within the Probation Service)

Government office region	Proportion of minority ethnic people in regional working population	Target	Current minority ethnic level Dec 1997		
			PO grade	Non-PO grade	All staff
North East	1.4%	1.4%	1.6%	0.5%	1.0%
North West	4.3%	5.4%	7.3%	3.7%	5.4%
Yorkshire and Humberside	5.1%	5.1%	6.0%	4.3%	5.0%
East Midlands	4.7%	7.2%	8.0%	6.6%	7.2%
West Midlands	9.0%	11.6%	13.6%	10.2%	11.6%
Eastern	3.4%	4.9%	3.5%	5.9%	4.9%
London	24.2%	26.5%	21.9%	30.6%	26.5%
South East	3.4%	3.6%	3.5%	3.6%	3.6%
South West	1.3%	2.6%	2.6%	2.6%	2.6%
Wales	1.4%	1.7%	2.1%	1.5%	1.7%
England and Wales			8.6%	8.1%	8.3%

10.5 Following the Home Secretary's announcement, each service<sup>74</sup> was required to set targets for the recruitment and career progression of minority ethnic staff and to review and revise its procedures in light of the recommendations of the report and the findings of this thematic inspection. Each service was to submit their revised policies, together with area targets and an action plan for their achievement, to the Home Office by August 2000. The Race Equality Implementation Group was established with representation from the Home Office, ACOP, CPC, ABPO and NAAPS to commission and oversee developments arising from the report and to disseminate good practice.

10.6 Given the recent nature of the announcements, it was not surprising that only a few services had begun to consider their significance. Information obtained from the audit of all services showed that 9 per cent (five out of 54) had set targets relating to the recruitment of staff from minority ethnic groups. The targets established for the progression of minority ethnic staff were demanding and sought to increase their number considerably, particularly at management level.

### The role and composition of the probation committee

10.7 The duties and powers of probation committees had been established by the Probation Rules Act 1984 (as amended) and the Probation Service Act 1993. Their duties included the appointment of probation staff.

<sup>74</sup> Home Office *Race Equality - Developing Minority Representation within the Probation Service* (1999). See also Probation Circular 45/99.



- 10.8 In 1994 a paper, produced by the ACOP Anti-Racism Action Group,<sup>75</sup> highlighted the issue of the low level of representation of minority ethnic groups on probation committees and put forward a series of proposals to remedy the situation. These included seeking to co-opt members of the local minority ethnic community with the relevant skills and experience to the probation committee and suggesting that existing members use their influence to recruit magistrates from minority ethnic groups. Further guidance on membership and composition was provided by the CPC in 1996,<sup>76</sup> who referred to the increasing practice adopted by probation committees of advertising for members with particular relevant skills and experiences.
- 10.9 However, a review undertaken in 1999 on behalf of the ACOP Equal Opportunities network<sup>77</sup> found the number of minority ethnic representatives on probation committees had changed little since 1994 and remained extremely low. Only six of the 10 services visited during the inspection had minority ethnic representation on the probation committee. Six of the 10 members concerned had been co-opted and three came from one service, the West Midlands.
- 10.10 It was disappointing to note the lack of action taken by some services to attract potential applicants from minority ethnic groups to the probation committee. The committees and CPOs in all services visited expressed concern at the low level of representation from minority ethnic groups on the probation committee. Reasons given for the failure to attract suitable applicants included the lack of potential candidates amongst the magistrates and local authority representatives. Those services with minority ethnic representation at probation committee level had made specific and determined attempts to attract suitable candidates. West Sussex, had actively sought to co-opt a member with the specific skills to advise on equal opportunities and anti-discriminatory practice. Avon, Cheshire and South Glamorgan had approached local organisations representing minority ethnic groups seeking nominees, albeit in Cheshire without success. The South Glamorgan service had also advertised in the local press, whilst Avon wrote to individuals who were considered to have the appropriate experience.
- 10.11 Probation committee members were actively involved in the recruitment of staff in all of the services visited. In the majority, their involvement was reserved for recruitment of management grades only but in Cheshire, West Sussex and

<sup>75</sup> Association of Chief Officers of Probation Anti-Racism Action Group *Agenda for Action - Advice to Areas* (May 1994).

<sup>76</sup> Central Probation Council *Handbook for Committee Members* (1996).

<sup>77</sup> *Ibid*, see footnote 65.

Nottinghamshire Probation Committee members also took part in the appointment of POs. The level of work undertaken by services to prepare members for this role varied considerably between services. In South Glamorgan and Inner London, all members involved in the recruitment of staff received mandatory training in recruitment and anti-discriminatory practice, whereas in South East London and Merseyside none was available. In the West Midlands, although training was not currently offered, any member involved in the recruitment of staff was advised on the process beforehand. This practice is commendable but only as an addition rather than a substitute for training. Training should be mandatory for all staff involved in recruitment, including probation committee members.

### **Staff profile**

10.12 The Home Office Probation Statistics for England and Wales, 1998 gave the most recent information on the distribution of minority ethnic staff throughout the probation service. Figures showed that the overall percentage of minority ethnic staff employed by the service was considerably higher than that of the national minority ethnic working population, based on the recent Labour Force Survey, as shown in table 19.

Table 19: Probation staff<sup>(1)</sup> in post by category/grade and ethnic group  
(Source: Probation Statistics 1998)

England and Wales 31 December 1998		Number of staff and percentage					
Type of employment	Black	Asian <sup>(2)</sup>	Other ethnic minority group	All ethnic minorities	All recorded ethnic groups	Ethnic group not recorded	All staff
Probation officers							
Chief officer <sup>(3)</sup>	0.7	0.7	–	1.5	273	0.7	275
Area Managers	4.3	–	2.2	6.5	46	2.1	47
SPO	3.4	0.5	0.4	4.3	1004	2.0	1025
Senior Practitioner	–	–	–	–	72	2.7	74
Main grade <sup>(4)</sup>	7.7	1.2	0.9	9.8	6022	3.4	6237
All probation officers	6.8	1.1	0.8	8.7	7417	3.1	7658
Non-probation grade staff <sup>(5)</sup>							
PSOs	5.5	1.6	1.4	8.5	2182	4.0	2272
Research and information officers	5.0	4.0	1.0	10.0	100	1.0	101
Clerical/secretaries	6.7	1.7	1.1	9.6	3389	2.7	3482
Administrative officers <sup>(6)</sup>	3.6	1.0	1.2	5.7	1034	2.1	1056
Sessional supervisors	5.2	0.9	1.4	7.5	1366	5.7	1448
Cleaners, etc <sup>(6)</sup>	1.3	0.4	0.6	2.3	525	4.2	548
All non-probation grade staff	5.4	1.4	1.2	8.1	8596	3.5	8907
Hostel staff	9.4	0.9	1.0	11.3	1051	5.4	1111
All staff	6.3	1.2	1.0	8.5	17061	3.5	17676
Volunteers	8.1	3.7	1.2	13.0	1459	4.9	1534
Probation committee members	1.8	1.3	0.2	3.4	983	4.9	1034
General population of working age <sup>(7)</sup>	2.2	3.4	1.4	7.0	–	–	–

1. Includes part-time staff
2. Indian, Pakistani and Bangladeshi
3. Includes DCPO and ACPO
4. Includes temporary and trainee officers
5. Excludes hostel staff
6. Includes senior, principal, chief administrative officers
7. Figures from those aged 18-54 in the 1996/98 Labour Force Survey

10.13 Comparison with the figures for 1997 showed that the proportion of minority ethnic staff had varied between:

- 8.5 per cent of all probation staff were from minority ethnic groups at the end of 1998 compared to 8.3 per cent at the end of 1997
- 11.3 per cent of hostel staff were from minority ethnic groups compared to 12 per cent at the end of 1997
- 10.0 per cent of research and administrative officers were from minority ethnic groups compared to 9.5 per cent at the end of 1997
- the percentage of chief officers from minority ethnic groups had remained static between 1997 and 1998 at 1.5 per cent
- the percentage of SPOs from minority ethnic groups had risen from 3.4 per cent at the end of 1997 to 4.3 per cent at the end of 1998.

- 10.14 The main concentration of staff was at operational level, with a particularly high level of representation amongst hostel and research and information staff. The review undertaken on behalf of ACOP<sup>78</sup> revealed that 15 services did not appoint any member of staff from a minority ethnic group in 1998 and a further 13 appointed only one. A small but significant number of probation services were known to employ less than five members of staff from minority ethnic groups.
- 10.15 Additional information indicated that, amongst PO grades, the number of minority ethnic staff at SPO level had remained constant at 3.3-3.4 per cent from 1995 until increasing to 4.3 per cent in 1998. It was not possible to make a similar analysis of the progression rates of clerical and administrative staff due to the method of collating the data. As of 31 December 1998, the highest ranking probation service staff from minority ethnic groups currently working in probation services were three ACPOs. The underlying position, despite the positive overall statistics, therefore gave no room for complacency.
- 10.16 The national probation statistics also suggested that the representation of the different minority ethnic groups within the staffing level did not reflect the national figure given in the recent Labour Force Survey and that a disproportionately low number of Asian compared to African/African-Caribbean staff were employed by the service. In 1998, 6.3 per cent of all probation staff were African/African-Caribbean compared with 2.4 per cent of the general working population, whereas 1.0 per cent of probation staff were Asian compared with 3.4 per cent of the general working population. The representation of different ethnic groups within the probation service was referred to in the report to the Home Secretary on minority ethnic representation in the probation service:<sup>79</sup>
- "A major barrier to recruitment is seen to be the negative image that Asian communities often have of the probation service as an employer. To overcome this and encourage more representative levels of Asian applicants, will require considerable work with local communities and focused recruitment campaigns.*
- Within the overall level of black staff within probation services, it is thought that black African staff may be similarly under-represented in comparison with black Caribbean staff, with the same issues faced as for Asian staff."*
- 10.17 The services visited reflected the position nationally. Tables 20 and 21 show the number of probation managers, main grade POs

<sup>78</sup> Ibid, see footnote 65.

<sup>79</sup> Ibid, see footnote 74.

and clerical staff and secretaries in post by the end of 1998 in the 10 services visited.

Table 20: Probation managers in post 31 December 1998 in services visited (Source: Probation Statistics 1998)

Probation service	Chief officer grades				SPOs			
	White	African/African-Caribbean	Asian	"Other"	White	African/African-Caribbean	Asian	"Other"
Avon	4	0	0	0	13	0	0	0
Cheshire	4	0	0	0	17	0	0	0
Cornwall	3	0	0	0	8	0	0	0
South Glamorgan	4	0	0	0	8	0	0	0
Inner London	21	1	0	0	85	8	0	0
South East London	3	0	0	0	7	0	0	0
Merseyside	9	0	0	0	32	2	0	1
Nottinghamshire	5	0	0	0	20	2	1	0
West Midlands	11	0	1	0	63	5	1	0
West Sussex	4	0	0	0	7	0	0	0

**Commentary:**

- Inner London and West Midlands were the only services where minority ethnic staff were represented at chief officer level. The ACPO in Inner London was, however, seconded to the Cabinet Office.
- Nottinghamshire had the highest proportion of minority ethnic staff at SPO level (13 per cent).
- In comparison, only 7.6 per cent of the SPOs employed by Inner London were from minority ethnic groups.
- Avon, Cheshire, Cornwall, South Glamorgan, South East London and West Sussex did not employ any minority ethnic staff at chief officer or SPO level.

Table 21: Probation staff in post 31 December 1998 in services visited (Source: Probation Statistics 1998)

Probation service	POs				Clerical/secretarial staff			
	White	African / African-Caribbean	Asian	"Other"	White	African / African-Caribbean	Asian	"Other"
Avon	80	5	0	0	70	4	0	0
Cheshire	87	0	0	0	56	0	0	0
Cornwall	41	0	0	0	23	1	0	0
South Glamorgan	48	3	0	0	32	1	1	0
Inner London	373	115	8	7	169	123	12	12
South East London	54	18	0	1	38	2	0	1
Merseyside	209	12	0	3	155	0	0	0
Nottinghamshire	129	13	4	1	69	5	2	0
West Midlands	284	73	16	1	193	28	10	3

West Sussex	59	0	1	0	29	0	0	0
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### Commentary:

- Inner London and South East London employed the highest proportion of minority ethnic staff as POs.
- Inner London employed a significantly higher proportion of minority ethnic staff as clerical/secretarial officers than any of the other services visited.
- South Glamorgan, Inner London, Nottinghamshire, West Midlands and West Sussex were the only services to employ Asian staff as either POs or clerical/secretarial officers.

### Staff views

- "Recruit specifically from minorities. There isn't a single black clerical officer. This is the first image of the probation service that we see."
- "To employ more people from minority groups, not just as relief workers or at the very bottom of the scale."
- "A more equal ratio of staff within our HQ which reflects the racial make-up of the area."
- "Ensure always a black presence on recruitment or selection panels."
- "Although in my view the service does employ a significant number of minority ethnic staff, this does not represent the overall population. There are insufficient numbers of staff, particularly at PO grade originating from the Indian subcontinent."
- "They need to advertise so people know they're about."
- "I can see that more effort is being made to employ more people from all types of background, both social and ethnic across all grades."
- "Ensure always a black presence on recruitment and selection panels and provide guidelines to safeguard against inappropriate questioning on EOP areas."

### Positive action

10.18 The Race Relations Act 1976 allows for positive action to be taken where particular racial groups are under-represented in specific areas of work and to meet special needs. It includes measures to encourage applications for jobs from people of a particular racial or ethnic group where they have been disproportionately under-represented at any time in the past 12 months. It is distinct from "positive discrimination", as explained by the CRE in its advice to employers:<sup>80</sup>

*"The element of competition remains paramount. The Act does not provide for people to be taken on because they are of a particular racial group except in very limited circumstances where being from a particular racial group is a genuine occupational qualification for the job."*<sup>81</sup>

<sup>80</sup> Commission for Racial Equality *Positive Action and Equal Opportunity in Employment* (1985).

<sup>81</sup> Genuine occupational qualification is the term used for appointments made under Section 5(2) of the Race Relations Act 1976 where racial origin can be regarded as an acceptable qualification for a particular job.

- 10.19 The audit revealed that 42 services (78 per cent) had taken measures to encourage people from minority ethnic groups to seek employment within the service. Many services appeared to have limited their commitment to positive action to a phrase in advertisements for staff indicating that applications from minority ethnic candidates were welcome, although some had considered the circulation of job advertisements through the local REC. Others had attempted to promote themselves as a prospective employer through attendance by service representatives at careers' conventions and job fairs or by attending local schools and speaking on the work of the service.
- 10.20 Despite these measures, it was disappointing that the majority of services had not been more proactive and sought to explore the possibilities offered by projects such as the modern apprenticeship scheme. A specific example of what could be achieved was given by Avon who, in 1997, entered into an agreement with a local community organisation to employ an individual from a minority ethnic group on a one-year contract to work as an administrative assistant. Training through day release was arranged by the community organisation which also provided a mentor for the individual. This scheme terminated after the year but the service have since linked in to an equality initiative run by Bristol City Council whereby they have agreed to offer work experience as administrative assistants to two young people aged 15-18 from minority ethnic groups over the summer holiday period.
- 10.21 No targets had been set by any of the services visited relating to the recruitment of minority ethnic staff. However, concern was expressed by the CPOs and probation committees of many services, including Inner London and West Midlands with a significant proportion of minority ethnic staff, at the low numbers of Asian applicants for posts. In Merseyside and Nottinghamshire, particular difficulty had been experienced in attracting applications from people from minority ethnic groups for clerical and administrative posts. Consideration should be given by all services, but particularly those with a low proportion of minority ethnic people in the local population, to the adoption of positive action measures to increase the level of representation of ethnic groups under-represented at all grades.

#### **Recruitment of trainee probation officers**

- 10.22 The inspection did not consider in depth the recruitment of trainee POs by the regional consortia. Figures available for

the first intake in 1998 showed that 15.1 per cent of the applicants and 11.3 per cent of the trainees appointed were from minority ethnic groups. Provisional figures for 1999 for the second intake indicated that, although the overall number of applicants from minority ethnic groups had increased, the number appointed as trainee POs had dropped slightly.

- 10.23 Information available from the audit of all services showed that 39 out of the 49 services (80 per cent) who responded to the question had agreed a strategy with their local consortium for the recruitment of trainees. In half of the services, the strategy included reference specifically to the recruitment of minority ethnic trainees.
- 10.24 The majority of the services visited had a strategy either in place or in the process of being agreed for the recruitment of minority ethnic trainee POs. The draft strategy for the Midlands region included publicising the work of the probation service across all communities, the provision of information packs in the applicant's first language and the employment of experienced minority ethnic staff as practice development assessors. Such initiatives were laudable but overdue and needed to be progressed as a matter of urgency and implemented consistently.
- 10.25 The services visited generally expressed satisfaction at the work undertaken on their behalf to recruit trainees, However, the failure of the South West Consortium to appoint any applicants from minority ethnic groups had caused particular disappointment within the Avon service. A working group had subsequently been established by the consortium to address this issue. Similar concerns had been raised by Inner London about the written and cognitive tests used as part of the selection process which, although individually acceptable, were believed, when applied together, potentially to disadvantage minority ethnic applicants. These concerns were being addressed by the service and consortium.

### **The recruitment process**

- 10.26 The ACAS guidelines<sup>82</sup> referred to the importance of drawing up both a job description and person specification as the first requisite in recruitment practice:

*"It is important that there is a direct and precise connection between the person specification and the job description. In*

<sup>82</sup> Advisory, Conciliation and Arbitration Service *Employing People* The ACAS Handbook for Small Firms (October 1985).



*this way, the person's ability to do the job is considered, not unrelated personal characteristics."*

10.27 Information obtained from the audit showed that:

- up-to-date job descriptions were available for all posts in 49 services (91 per cent)
- an up-to-date person specifications were available for all posts in 41 services (76 per cent).

10.28 Although all the services visited had job descriptions not all had developed person specifications for each post. In South Glamorgan, the service had drawn up explicit procedures for the recruitment and selection of staff. Person specifications linked to the occupational management standards had been developed for each managerial post and were in the process of being developed for others. In West Midlands, person specifications were available for some posts but were drawn up prior to the interview for others. All acknowledged the importance of revising both the job descriptions and person specifications. Most services undertook a review as the posts became vacant. At the time of the inspection, all job descriptions and person specifications were being re-examined in Inner London as part of its human resource strategy. The importance of comprehensive job descriptions and person specifications being available to prospective candidates for all positions to assist them in their application for the post and ensure fair and equitable process in the shortlisting and selection of staff cannot be underestimated.

10.29 The CRE's Code of Practice recommended that employers should not confine advertisements unjustifiably to those publications which were unlikely to be read by applicants from a particular racial group. The CRE also suggested employers should not confine recruitment unjustifiably to employment agencies, job centres or careers offices which, because of their particular source of applicants, could provide only or mainly applicants of a particular racial group. Merseyside was the only service to use an employment agency for the recruitment of certain posts on the basis that the agency was located in an area in which a significant number of minority ethnic people within the city lived. Employment agencies should not form the sole source of recruitment for particular posts and their performance should be monitored by services to ensure a wide range of applicants from different groups.

10.30 It was positive to learn from the audit that 42 of the 54 services (78 per cent) attempted to encourage applications for posts from members of minority ethnic groups. The measures most commonly cited were:

- the placement of advertisements in newspapers specifically targeted at minority ethnic groups such as "The Voice" or "Eastern Eye"
- statements in job advertisements saying that applications from individuals from minority ethnic groups were particularly welcomed
- recruitment campaigns through minority ethnic organisations.

10.31 Nottinghamshire and South East London were the only services of those visited to indicate that they used these papers. Others, such as Avon and Merseyside, were reluctant to do so as they believed that the circulation was mainly confined to the London area. The use of papers for recruitment undoubtedly had the additional benefit of raising the profile of the probation service as a prospective employer amongst minority ethnic people. None of the services visited appeared to have considered other forms of the media, such as local radio or internet to promote the service as a potential employer to local people. The services which had been most successful in attracting applicants from minority ethnic groups had adopted a variety of methods to advertise vacancies.

10.32 The wording of advertisements was also a significant factor in attracting a broad spectrum of suitable applicants. 35 per cent of the minority ethnic staff who responded to the questionnaire indicated that they had first been attracted to work in the service in response to an advertisement in a newspaper. A significant number of those interviewed during the course of the inspection stated that, although they had had little previous knowledge of the service, they had been encouraged by the equal opportunity statement contained in the advertisement. Additional action on this issue had been undertaken by Avon who had revised the terminology used in advertisements in order to attract the widest range of possible applicants. Examples included the use of terms such as "Good at DIY" when recruiting for CS supervisors instead of asking for people skilled in "carpentry" or "joinery". This practice is commended.

#### **Information sent to prospective applicant**

10.33 Information from the audit showed that, when available, a job description was included in the information sent to prospective applicants by almost all services. In contrast, the person specification was only sent to prospective applicants by 45 of the services, with Nottinghamshire adopting the somewhat surprising view that to do so would provide the candidate with guidance on how to respond to the interview questions.

10.34 All the services visited, apart from Avon, had developed some form of information pack to send applicants. The type of information included varied according to the nature of the post. In accordance with the CRE Code of Practice a number of services included a statement to the effect that they were an equal opportunities employer. It was apparent, in reviewing the literature sent to prospective applicants, that some services had paid considerable attention to the image they were presenting to prospective employees. The information pack developed by West Midlands was a good example and included a leaflet written in an open, friendly style to applicants which advised them on the shortlisting process and encouraged them to ask for feedback if not successful. Similar information was produced by South Glamorgan and West Sussex.

### **The selection process**

10.35 The CRE Code of Practice recommends that in order to avoid direct or indirect discrimination, staff responsible for shortlisting, interviewing and selecting candidates should be:

- clearly informed of the selection criteria and of the need for their consistent application
- given guidance or training on the effect which generalised assumptions and prejudices about race can have on selection procedures
- made aware of the possible misunderstanding that can occur in interviews between persons of a different cultural background.

10.36 Although all the services visited stated that shortlisting was undertaken consistently and that applicants were assessed solely against job related criteria, the absence of person specifications for certain posts in services such as South Glamorgan, Nottinghamshire and West Midlands raised questions about the integrity of the process. In addition, whilst all the 10 services made use of a standard application form, several would consider other information submitted by the applicant, such as *Curriculum Vitae* (CV), even if unsolicited. Such practices were not consistent with equality of opportunity and could lead to indirect discrimination. Avon, Inner London, Merseyside, West Midlands and West Sussex indicated clearly that only information contained on the application form would be considered by the service. Avon and West Midlands also made additional efforts to inform applicants of their practice of disregarding CVs. Avon included a statement to this effect in both the advertisement and the letter sent to potential

recruits, whilst West Midlands had a statement on its job application form. These practices are commended.

10.37 The inspection found that all services followed standard selection procedures. Selection was based on a pre-agreed range of criteria, the job description and person specification, where available, with a standard scoring procedure. These procedures were based on standard employment practice, as described by ACAS,<sup>83</sup> and were widely regarded as acceptable in terms of promoting equality of opportunity. A formal interview remained the main method for the appointment of staff, although written tests and presentations were also utilised, if appropriate, by some services. The concerns expressed by Inner London regarding the potentially negative impact of the type of assessment tool used for probation trainee officers suggested the need for further exploration to ensure that the procedures adopted in the recruitment of staff do not adversely affect minority ethnic applicants.

#### **Recruitment of temporary staff**

10.38 Although the inspection did not focus on the recruitment of temporary staff, HMIP considered that the same principles underpinning the fair and equitable employment practice of permanent staff should also relate both to the recruitment of temporary and sessional staff. Such work provided valuable experience which could assist when making application to permanent posts.

10.39 Whilst acknowledging the demands placed on services to provide cover for unexpected vacancies, it is therefore suggested that services should establish clear written procedures regarding the recruitment of all temporary posts. The procedures should recognise the operational requirements of the service but also ensure that members of particular minority ethnic groups are not discriminated against, either directly or indirectly, by the process. The review should include the recruitment of:

- sessional workers within CS
- assistant hostel wardens
- supply workers in clerical and administrative positions
- temporary probation staff
- "acting up" arrangements.

<sup>83</sup> Advisory, Conciliation and Arbitration Service *Recruitment and Induction* (June 1997).

## Summary

- 10.40 Regional targets were set in July 1999 for the probation service for the recruitment, retention and career progression of minority ethnic staff over a 10 year period. Each service had to submit to the Home Office revised policies, area targets and an action plan by mid-2000. Given the recent nature of the announcements, it was not surprising that only a few services had begun to consider their significance.
- 10.41 Despite the efforts of ACOP and CPC, the number of minority ethnic representatives on probation committees had changed little since 1994 and remained extremely low. Only six of the services visited had minority ethnic representation on the probation committee. Six of the 10 members had been co-opted and three came from one service, West Midlands. Although all CPOs and probation committees expressed concern at the low level of minority ethnic representation on the probation committee, it was disappointing to find the lack of action taken by some services to attract potential applicants from minority ethnic groups.
- 10.42 The audit showed that 80 per cent of services had agreed a strategy with their local consortium for the recruitment of trainee POs. The majority of the services visited had a strategy either in place or in the process of being agreed for the recruitment of minority ethnic trainee POs. Such initiatives were laudable but overdue and needed to be progressed as a matter of urgency and implemented consistently.
- 10.43 According to 1998 figures, the proportion of minority ethnic staff employed by the service was considerably higher than that of the minority ethnic working population based on the recent Labour Force Survey. A disproportionately low number of Asian compared to African/African-Caribbean staff were employed by the service. The main concentration of staff were at operational levels, with a particularly high level of representation amongst hostel and research and information staff. Minority ethnic staff were under-represented at chief officer level and at other management grades.
- 10.44 Many services had taken limited action to encourage those from minority ethnic groups to seek employment within the service but no specific targets had been set. It was disappointing that the majority of services had not been more proactive, particularly those in rural areas.
- 10.45 Although all services had job descriptions, not all had developed person specifications for each post. The services most successful in attracting applicants from minority ethnic

groups had adopted a variety of measures to advertise vacancies. The majority of services had developed an information pack to be sent to prospective applicants and it was apparent that some services had paid particular attention to the image they were presenting to prospective employees. All services stated that shortlisting was undertaken consistently against job related criteria. However, the absence of person specifications for each post raised questions about the integrity of the process in certain services. All services made use of a standard application form but a number would also consider CVs submitted by the applicant, even if unsolicited. This practice is not acceptable. The selection of staff was based on standard employment practice, as described by ACAS and were widely regarded as acceptable in promoting equality of opportunity. A formal interview remained the main method for the appointment of staff but written tests and presentations were also used if appropriate to the post.

### **Recommendation**

10.46 It is therefore recommended that:

*The Home Office should ensure appropriate minority representation on the new probation boards.*

*The Home Office should, in order to achieve improved consistency of approach:*

- (a) further review the model framework for the recruitment and selection of trainee POs;*
- (b) issue guidance to all services on the recruitment and selection of all grades of staff.*

*Probation committees and CPOs should develop workforce planning strategies from April 2001 to meet set targets for the recruitment of minority ethnic staff and implement positive action measures to address imbalances.*



## 11. SUPERVISION, APPRAISAL AND SUPPORT

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- 11.1 This chapter considers the support offered by services to minority ethnic staff and their supervision and appraisal.

### Induction of new staff

- 11.2 ACAS guidelines<sup>84</sup> stress the importance of a culturally sensitive approach to induction and the need to address the different requirements of new employees from minority ethnic groups. The guidelines stated that:

*"A good induction programme avoids problems by positively helping a newcomer to settle in and reinforcing their satisfaction at having got the job. It gives newcomers the opportunity to meet people they might otherwise not meet, and helps them to understand their role and how they fit into the organisational team. It also provides an opportunity to get to know the structure of, and the role played by, the recognised trade union."*

- 11.3 It was positive to note that all the services visited provided some form of induction for new staff. Of those minority ethnic staff who responded to the questionnaire, 77 per cent indicated they had received a formal induction on first joining the service and 83 per cent said that their first impression on joining the service was a positive one.
- 11.4 The arrangements for induction varied across the services visited. In the majority of services it consisted of a standard programme, delivered centrally to all new members of staff. In these circumstances, responsibility was shared between the immediate line manager and the personnel department. Most induction programmes included the equal opportunities and anti-racism policies as part of the process of familiarisation with service expectations and procedure. Reference was also made by some services, but not all, to the provision of support through ABPO and NAAPS. In South East London, Nottinghamshire and West Sussex, the responsibility to organise and oversee the induction process for individual members of staff was located with the line manager. In the West Midlands, much of the initial induction of new staff took place at a local level. As part of its staff development programme for 1999/00, guidance was to be produced on the induction of all staff and the

<sup>84</sup> Ibid, see footnote 83.



feasibility of running a central induction programme on a twice-yearly basis was to be explored.

- 11.5 The anti-racism strategy in Avon emphasised the particular importance of properly inducting new minority ethnic members of staff. The process had recently been reviewed and a quarterly induction course was now run centrally. The programme provided an overview of the service and the opportunity for familiarisation with its policies and procedures, including the anti-racism strategy. It was positive that new staff were also informed of the role of staff harassment counsellors and of support offered from external organisations such as ABPO.
- 11.6 West Sussex saw induction as the process of welcoming and integrating new recruits into the service and the team to which they had been appointed. The service had produced a comprehensive induction pack which included the harassment policy, disciplinary and grievance procedures. The pack was designed to be given to all new employees on their first day at work. An induction checklist had also been developed which detailed the work to be undertaken with new members of staff by their line manager. However, despite the high standard of the pack, staff seen during the course of the inspection were unable to recollect any discussion during their induction on equal opportunities. The importance of emphasising the service's stance on anti-discriminatory practice needed to be raised by service managers, thereby ensuring that it became an integral part of the induction process.
- 11.7 The failure to give proper consideration to equal opportunities during the induction process was also evident in other services. In Cornwall, no member of staff seen during the course of the inspection could remember any discussion of the implications of the policy and what was expected of staff. Similarly in South Glamorgan, staff were unable to recall any mention of the equal opportunities policy during the course of their induction.
- 11.8 Induction provided services with an opportunity to promote the culture of the organisation at an early stage with new staff. It was apparent that where the size of the service, and subsequent staff throughput, made a centralised induction programme viable, the process could provide a way of ensuring that new recruits to the organisation were given consistent and appropriate information about practice and procedure. In those services where a centralised programme was not viable, greater responsibility was placed on individual managers to ensure the proper induction of new staff.

## Location of staff

- 11.9 The issue of location was explored with staff. Although 69 per cent of staff who responded to the questionnaire indicated that they worked with colleagues from their own ethnic group, 24 per cent said that they felt isolated within their workplace. Almost half who felt isolated had brought the matter to their manager's attention but only about a quarter of those who had done so felt that the matter had been fully addressed by their management. The complaint was not reserved to those services employing low numbers of minority ethnic staff but spread across all services as shown in table 22 below. It became apparent during the course of the inspection that the low level of minority ethnic representation in particular functional areas of work, such as CS, was also a matter of concern in some services.
- 11.10 A number of minority ethnic staff described the stress caused by isolation either through their particular location or through being one of the only minority ethnic member of staff working in a predominantly white area. Some appeared to regard their isolation somewhat fatalistically as a further hurdle to overcome.

Table 22: Staff isolation\* (Source: Staff questionnaire)

Percentage of staff describing self as isolated in work	Yes	No
Avon	1	6
Inner London	14	66
South East London	2	4
Merseyside	1	9
Nottinghamshire	7	8
West Midlands	12	39
Cheshire/South Glamorgan/West Sussex	2	3

\* No response was received from Cornwall.

### Commentary:

- Despite the significantly higher proportion of minority ethnic staff employed by the service, about half the respondents from Nottinghamshire considered themselves to be isolated in their work compared to about 15 per cent in Avon and about 10 per cent in Merseyside.
- 11.11 The location of staff had received varying levels of attention by services. Little apparent effort had been made by the majority of services to consider the potentially damaging effects on lone minority ethnic members of staff in teams, whether in rural areas or particular locations such as prisons. Avon was the only service to state explicitly in the anti-racism strategy that minority ethnic staff should be consulted on appointment as to their location. Discussion with minority

ethnic staff members during the course of the inspection, however, suggested that this rarely occurred and most considered that their location had been dictated by expediency.

- 11.12 Awareness of the potential vulnerability of minority ethnic staff had been heightened within Nottinghamshire and South East London by the presence of the British National Party in certain areas. Although no attempt would be made by either service to locate a member of staff against their will in an area in which they could potentially be at risk, it was not clear from discussion with managers what mechanisms were in place for the support and protection of minority ethnic staff who accepted a post under these circumstances. In Nottinghamshire, senior managers stated that they aimed to avoid placing any minority ethnic member of staff in a location where they could feel isolated. Where this was not possible, responsibility was placed upon the manager to ensure that appropriate arrangements were made to support the individual member of staff. Feedback from staff, both through discussion and the questionnaire, suggested that, in practice, the level of support varied considerably.
- 11.13 It was evident both from discussion with operational staff and from feedback from the questionnaire that the degree of real support offered varied considerably and required investigation. HMIP was concerned at the potential vulnerability of staff and resulting stress if sufficient attention was not paid to these issues when decisions were made regarding the location of staff.

### **Supervision and appraisal policies**

- 11.14 A national system of performance appraisal was developed in 1993 by a working group established by the Home Office with representation from HMIP, CPC, ACOP and other invited experts. The model scheme required staff to undertake and complete core tasks to an expected standard. Best practice was to be promoted through the achievement of personal objectives. All post holders were to be assimilated into the scheme, including part-time and sessional staff and those on short-term contracts. Appraisals were to be completed on an annual basis.
- 11.15 Guidance on implementation was provided by a probation circular<sup>85</sup> which emphasised the role of the new appraisal model in ensuring equality of opportunity. It also highlighted the

<sup>85</sup> Home Office Probation Circular 2/1993 *Performance Appraisal in the Probation Service*.

responsibility placed on service managers to establish procedures to monitor the implementation of the scheme:

*"Performance appraisal supports equality of opportunity by focusing on work-related elements and insisting on evidence to justify conclusions. ... Appraisers and countersigning officers must ensure that performance comments and ratings are based on evidence about the post holder's performance in the job and are consistent with the equal opportunities policies. Comments and ratings should not normally reflect circumstances such as family responsibilities, domestic arrangements, part-time working or lack of interest in promotion. ... All appraisers and countersigning officers must therefore take the utmost care to ensure that no improper discrimination takes place at any stage in the process."*

- 11.16 Despite the emphasis placed in the circular on the importance of avoiding discrimination in the appraisal process, the new model failed to address, in the way that the national standards of the time had done, that effective action to prevent discrimination required significantly more than the willingness to treat all people equally. As a result, no explicit attention was given to the need to address the different requirements of minority ethnic staff.
- 11.17 In April 1998, the Core Competences for Senior and Middle Managers were replaced by management standards aimed at improving the performance of services as a whole. The standards stressed the importance of values and ethics to competent management performance in which anti-discriminatory practice and the promotion of equal opportunities was an integral part. Although the standards made implicit reference to the supervision of staff from different ethnic groups, in common with the previous competences, no specific mention was made to the skills and qualities required of managers in the effective supervision of staff from different ethnic groups and the promotion of race equality.
- 11.18 All the services visited had either or both a policy and practice guidance relating to the supervision of staff and their appraisal. The focus tended to be on holding staff to account against agreed objectives. The importance of support was also acknowledged by all services but infrequent reference was made in the vast majority of the policies to support and to career development as the other key elements of the supervisory process.
- 11.19 Although the majority of the supervision and appraisal policies examined commented on the importance of equal opportunities, none made any explicit reference to the needs of minority ethnic staff. The performance appraisal policy adopted by Avon

did include a section on "Ensuring Fair Appraisal" which made reference to anti-racist and anti-discrimination legislation. The anti-racism strategy developed by the service in 1992 had made extensive reference to the needs of minority ethnic staff with regard to supervision and appraisal and acknowledged the potential for misunderstanding and miscommunication in the supervisory relationship between staff of different ethnic groups, but was not cross-referenced with the supervision policy and had not been implemented effectively.

- 11.20 Work was currently ongoing in the West Midlands, however, to pilot a "race equality supervision and appraisal scheme". The proposal was still in its developmental stages and was based on the identification and integration of race equality indicators into the supervision and appraisal process.

### Implementation of supervision and appraisal policies

- 11.21 Details of the implementation of the supervision and appraisal policies are shown in table 23.

Table 23: Supervision and appraisal of minority ethnic staff\* (Source: Staff questionnaire)

	Supervised by line manager	Appraisal completed during time in service	Appraisals completed on annual basis
Avon	3 (43%)	5 (83%)	3 (50%)
Inner London	75 (90%)	63 (81%)	34 (46%)
South East London	4 (67%)	4 (67%)	2 (40%)
Merseyside	8 (89%)	7 (70%)	2 (22%)
Nottinghamshire	12 (80%)	10 (67%)	6 (46%)
West Midlands	48 (94%)	42 (82%)	34 (69%)
Cheshire/South Glamorgan/ West Sussex	5 (100%)	4 (80%)	5 (100%)

\* No response was received from Cornwall.

#### Commentary:

- Although 88 per cent of the minority ethnic staff who responded to the questionnaire indicated that they received supervision from their line manager, 20 per cent said that they had never been appraised during their time in the service. Of those who had, only 54 per cent were appraised on an annual basis as required by the Home Office.
- Only three of seven staff in Avon reported receiving supervision. This was a matter of concern.

- Only two of nine staff in Merseyside and 40 of 74 staff in Inner London reported that their appraisals were completed on an annual basis.
- However, Cheshire, South Glamorgan, West Midlands and West Sussex achieved a high standard of performance in relation to both the provision of supervision and the timeliness of appraisals.

11.22 Overall, 29 per cent of minority ethnic staff who responded to the questionnaire rated the quality of the supervision that they currently received from their line-manager as unsatisfactory or poor. Whilst examples were provided by minority ethnic staff from all services of good supervision and support, many also described their experience of unproductive supervision sessions and poor relationships with managers. Although the poor implementation of the appraisal system would have had a negative impact on all staff, it was apparent from discussion with minority ethnic staff that their effective supervision also depended on their individual line manager's level of awareness and sensitivity to race issues.

11.23 The findings in Nottinghamshire were of particular concern. Only a third of the staff who responded to the questionnaire indicated that they considered the level of supervision they received to be satisfactory. The service had not implemented the national appraisal scheme because of a dispute with the unions and, as indicated in table 23, a significant number of staff had not been appraised. Although examples were given to HMIP of positive supervision by white managers, many minority ethnic staff seen during the course of the inspection spoke of their experience of discriminatory practice, describing the supervisory process as a "lottery", and lacked confidence that any difficulties would be dealt with effectively. HMIP were concerned at the poor experience of supervision reported by a significant number of minority ethnic staff and considered that further action was required to identify and address the underlying issues.

11.24 Throughout the inspection, staff spoke of the failure to complete appraisals., The only exceptions were in South Glamorgan and Cheshire where systems had been put in place by the service to monitor the regular completion of appraisals. In Inner London, concern had been expressed by the Race Issues Advisory Group at the high number of staff who had not been appraised and at the quality of the support offered to minority ethnic staff through the supervision and appraisal process. As a result, an instruction had been issued by the human resource manager that a performance planning document (PPD) containing objectives linked to the team and corporate plan was to be completed on all staff by April 2000 and performance appraisal

reports (PARs) by April 2001. To ensure their completion, all documents were to be copied to the personnel department and work was to be undertaken by the Race Issues Advisory Group to address the concerns raised in respect of minority ethnic staff.

- 11.25 The importance of the appraisal system in the career progression of staff had been highlighted in the report to the Home Secretary on minority ethnic representation.<sup>86</sup> It was evident from the inspection that both the appraisal system itself and its implementation required re-evaluation. The model developed in 1993 and amended in 1998 needed modifying to ensure that the particular needs of minority ethnic staff and the demands of working with both minority ethnic and racist offenders were explicitly addressed. These reservations about the appraisal system do not detract from the responsibility to provide regular, good quality supervision to all their staff supported by annual appraisal.
- 11.26 It was a matter of serious concern to discover the inconsistent quality of supervision and the poor implementation of the appraisal scheme in the majority of the services visited. Although the failure to implement the system would have a negative effect on all staff, the lack of confidence expressed by many at their line manager's perceived lack of awareness and sensitivity to cultural difference and race, together with the absence of specific attention to these issues in the management standards for the service, would mean that staff from minority ethnic groups would be particularly disadvantaged.

#### **Attendance at the Association of Black Probation Officers and the National Association of Asian Probation Staff**

- 11.27 The importance of ABPO and NAAPS in supporting minority ethnic staff was recognised in the report to the Home Secretary on minority ethnic representation in the probation service<sup>87</sup> which stated:

*"Currently ABPO plays an important role in support of black staff as well as in assisting with practice issues, service delivery and industrial relations issues. It assists black staff in preparing for promotion through its black managers' groups and support workshops, and also provides a mentor/coach service in the absence of any formal support being available within probation services. NAAPS provide a similar service to their members."*

<sup>86</sup> Ibid, see footnote 74.

<sup>87</sup> Ibid, see footnote 74.

11.28 In June 1990, acknowledging the need of services to define the level of support offered to the members and officers of ABPO, ACOP issued a position statement<sup>88</sup> in relation to both ABPO and NAAPS. The statement was informed by three guiding principles:

- service managers should make reasonable attempts to support and facilitate the work of ABPO
- time off for ABPO activities should be subject to the normal operational demands of the service
- recognition that the work undertaken by ABPO was in the best interests of the service and that ABPO members should be expected to feed information back to local service management to contribute to the furtherance of anti-racism policies and to the improvement of service delivery.

11.29 In defining the level of support to be offered to ABPO members, the statement asserted:

*"In assessing time off/expenses for members' activities, such a decision should be made at local level and based on the broad principle of support and encouragement adopted by ACOP and guided by the notion of 'reasonableness'. In making that judgement, CPOs will need to take account of:*

- *frequency of meetings*
- *number of black members of staff involved*
- *location of meetings*
- *distance involved in travelling to meetings/mode of travel*
- *degree of support made available to black members of staff in that area."*

11.30 Although it was suggested that individual services could adopt a similar approach to members of NAAPS, ACOP did not feel able to recommend a firm policy due , it was stated, to the low membership at the time.

11.31 Chief officers and probation committee members in all the services visited stated their active support and endorsement of ABPO and NAAPS during the course of the inspection. In West Midlands, the joint statement circulated to staff by the chair of the probation committee and the Acting CPO reiterated the service's intention to work with both organisations to promote race equality. However, South Glamorgan were the only service of those visited to have a written document, dated March 1994,

<sup>88</sup> Association of Chief Officers of Probation *Position Statement on Association of Black Probation Officers and National Association of Asian Probation Staff* (June 1990).



in place which outlined the practical support to be given to staff to attend ABPO. The document stated:

*"The probation committee gives support and encouragement to ABPO and will offer, subject to certain criteria, practical support and encouragement to time off being given to attend meetings, payment of travelling expenses and provision of meeting facilities."*

11.32 Although services, particularly those with high numbers of minority ethnic staff, may have considered that sound organisational reasons existed against stating explicitly and in writing the terms under which staff could attend national and regional support meetings, the price was the resentment, expressed by a significant number of staff, evident during the inspection. All minority ethnic staff in South Glamorgan who responded to the questionnaire reported that the service facilitated their attendance at the support meetings.

11.33 According to the questionnaire circulated to minority ethnic members of staff, only 64 per cent of African/African-Caribbean and 46 per cent of Asian staff who responded reported that their service facilitated their attendance at national/regional support meetings. Of those who responded:

- 56 per cent received travelling expenses
- 18 per cent received time off in lieu
- 10 per cent received a workload allowance.

11.34 Table 24 shows the variation both *within and between* services of staff views of the support offered by individual services to attend ABPO and NAAPS regional and national meetings.

Table 24: Attendance at ABPO and NAAPS meetings facilitated by the service\* (Source: Staff questionnaire)

	Attendance at ABPO and NAAPS meetings facilitated by the service	By payment of expenses	By workload allowance	By time off in lieu
Avon	5 (83%)	3	-	1
Inner London	36 (57%)	16	5	5
South East London	1 (25%)	2	-	1
Merseyside	7 (100%)	7	-	1
Nottinghamshire	9 (60%)	5	1	1
West Midlands	24 (57%)	14	3	6
South Glamorgan/ West Sussex	4 (100%)	1	-	1

\* No responses were received from Cheshire or Cornwall.

**Commentary:**

- A significant proportion of staff in both inner London and West Midlands considered that the service did not facilitate their attendance at ABPO and NAAPS meetings.
- All staff who responded in South Glamorgan, Merseyside and West Sussex considered that their service supported their attendance at ABPO and NAAPS meetings.
- The measure most frequently cited by staff to support their attendance at ABPO and NAAPS meetings was the payment of expenses. In Merseyside, all staff who responded had their expenses met.
- Only one member of staff to respond in South East London considered that the service supported their attendance at ABPO and NAAPS meetings.

11.35 Inner London gave significant practical support to ABPO nationally, in particular through the provision of accommodation. However, as reflected in the findings from the questionnaire, the failure to address explicitly both the terms under which staff could attend meetings and the consequent resource implications had led to the development of different practices across that service which caused considerable resentment amongst minority ethnic staff. In the West Midlands, the support given to attendance at ABPO and NAAPS meetings by the CPO and probation committee in the joint statement on race equality, which was circulated to all staff, was undermined by the different interpretations made by individual line managers as well as service managers.

11.36 In all services attendance was subject to the operational requirements of the service and the vast majority of staff accepted this limitation as reasonable. Greater clarification was required about the level of support offered to staff to facilitate their attendance at both national and regional meetings to ensure consistency of provision.

### **The establishment of local support groups**

11.37 Level 4 of the standard for race equality produced by the CRE<sup>89</sup> identified the importance of addressing the different needs of minority ethnic staff and suggested that organisations work to:  
*"Set up schemes to support the particular needs of minority ethnic staff as part of staff development, for example:*

- *Mentoring*
- *Shadowing*

<sup>89</sup> Commission for Racial Equality *Racial Equality Means Quality* (1995).

- *Self-help networks and access to other relevant networks.”*

11.38 The existence, role and function of the support groups varied significantly between services. Five of the services visited, Avon, South East London, South Glamorgan, Merseyside and Nottinghamshire, had established support groups for minority ethnic staff. The group in South Glamorgan was also open to minority ethnic staff in other services in Wales and thereby provided an important source of support to a wide range of staff. Support groups also existed in both Inner London and the West Midlands, although not across all divisions. As with attendance at ABPO and NAAPS meetings, the importance of consistency of provision within services cannot be overestimated. The degree to which individual members of staff considered their attendance at groups set up by their own services revealed surprising variations, as shown by table 25.

Table 25: Attendance at internal support group facilitated by the service (Source: Staff questionnaire)

	Attendance at local meetings facilitated by the service	By payment of expenses	By workload allowance	By time off in lieu	By provision in working hours
Avon	7 (100%)	2	-	-	7
Inner London	36 (49%)	11	2	5	27
South East London	0 (0%)	-	-	-	-
Merseyside	9 (90%)	5	1	-	8
Nottinghamshire	11 (73%)	4	2	1	8
West Midlands	37 (75%)	13	1	3	34
South Glamorgan	3 (60%)	0	-	-	3

**Commentary:**

- Avon and Merseyside had the highest proportion of staff who considered that their service facilitated their attendance at the local support group.
- Despite the provision of a local support group in South East London, none of the staff who responded to the questionnaire considered that the service enabled them to attend its meetings.
- The provision of meetings in working time was cited by staff as the main form of support offered by their service.

11.39 The majority of the internal support groups were open to all minority ethnic staff within the service. Although the culture of the groups was informal, their role needed to be clearly

defined, accepted and supported by service management and understood across the service if their function was to be clear. In South East London, terms of reference had been formally agreed when the support group was established. This approach is commended.

- 11.40 The relationship between the internal support groups and ABPO and NAAPS was seen by staff as complementary and staff interviewed during the course of the inspection strongly resented the inference made in the ACOP guidance that attendance at one should preclude any individual from the other.
- 11.41 The development of these groups was to the credit of the services concerned and had grown out of the recognition of the critical need for minority ethnic staff to meet together for mutual support. Although the primary focus of the groups in all the services visited was the support of its members, some had expanded into debate on issues relating to both policy and service delivery, the outcome of which needed to be communicated to senior management. No arrangements were in place in the majority of services with support groups to facilitate this dialogue.
- 11.42 The development of an atmosphere of trust between the group and chief officers was critical to the success of such arrangements. In addition to providing both individual and collective support, the minority ethnic staff group in Merseyside met regularly with either the DCPO or the chief officer with responsibility for human resources. HMIP found that the engagements were viewed positively by all involved and assisted in promoting open communication. A similar approach had been instigated by the CPO and DCPO in the West Midlands in response to concerns about issues of race highlighted in comments made in both the quality and effectiveness (Q&E) report<sup>90</sup> and the subsequent follow-up inspection.<sup>91</sup> These arrangements had met with mixed success due, it would appear, to a fear on the part of staff that the role played by the group in supporting individual members of staff could be lost. Attention to this issue was required by all services.
- 11.43 Minority ethnic staff seen during the course of the inspection reported that their white colleagues' attitudes to their attendance at support meetings varied considerably and depended to a large extent on the culture within the team. The questionnaire sent to minority ethnic staff indicated that only

<sup>90</sup> HM Inspectorate of Probation *West Midlands Probation Service Quality and Effectiveness Inspection Report No. 21* (1996).

<sup>91</sup> HM Inspectorate of Probation *West Midlands Probation Service Follow-up to Quality and Effectiveness Inspection Report No. 21* (1998).

52 per cent of those who responded considered that their work colleagues supported their attendance at either ABPO or NAAPS meetings or at the in-service groups. Many of the minority ethnic staff interviewed expressed reluctance to attend support meetings in the knowledge that their attendance could result in additional demands being made on colleagues unless properly incorporated into the office workload. None of the services visited had issued any guidance to middle managers, translating the service's commitment, where expressed, to supporting minority ethnic staff into operational reality. Team managers would be assisted in addressing the difficulties inherent in the situation by a clear statement of the priority given by the service to attendance at both internal and external support group meetings.

11.44 Although clerical and administrative staff were eligible to attend support group meetings in the majority of services, many expressed reluctance to do so. Reasons cited included the belief that the meeting would only focus on issues relevant to probation staff as well as hesitancy in seeking the necessary time to attend. Services needed to consider whether the existing structures were appropriate to meet the needs of support staff and, if so, how they can be enabled to take advantage of them.

11.45 The position of staff in those services with few minority ethnic employees such as Cheshire, Cornwall and West Sussex requires special consideration. The report to the Home Secretary on the minority ethnic representation in the probation service<sup>92</sup> comments on:

*"... the damaging potential for isolation of lone minority ethnic staff in rural areas with a low overall minority ethnic population, both in the workplace and for the individual's family within the local community."*

11.46 A conference report for minority ethnic staff in the South West included the following comments:

*"Rural locations are still being used for a limited focus on race issues. Black people are still being told 'there is no problem here'. This doesn't make us feel very welcomed as the message is 'If there are no black people in the area, white people will not behave oppressively'. This is clearly not the case as shown by the prison populations in such areas and by the racially motivated attacks on black people. Services are still using budgetary constraints as an excuse for complacency in these rural or semi-rural areas."*

<sup>92</sup> Ibid, see footnote 74.

*Black staff feel that there is no recognition of the richness and diversity that we bring to the service; no acknowledgement of the different approaches that we bring to its work."*

- 11.47 The impact of isolation on minority ethnic groups was highlighted in the final report of a race equality project<sup>93</sup> established in the South West which emphasised the importance of the development of policies to attract minority ethnic people to work in both the voluntary and statutory agencies in rural areas. A system of collaboration across agencies was advocated to provide inter-agency support groups. Although the geographical isolation of Cornwall in the South West region has both to be recognised and taken into account, it was nevertheless disappointing that little, if any, work had been undertaken by the service either to link into or contribute to the development of such structures. Reference was made to attendance at ABPO meetings by both Cheshire and West Sussex but there was insufficient evidence to suggest that any active consideration had been given to facilitating attendance at either regional or national events. It was evident from the accounts given by minority ethnic staff that specific action was required by managers in rural services to provide adequate support mechanisms for their staff. This issue needs to be explored by CPOs and probation committees, a position adopted by the service and communicated to all members of staff.

#### **Use of consultancy arrangements**

- 11.48 South Glamorgan and South East London were the only services to have made routine provision for the engagement of an external consultant to address race issues, accessible through the support group for minority ethnic staff. The Avon service had made reference to the need for specialist advice in its anti-racism strategy but had not made any formal provision.
- 11.49 In the majority of other services, apart from the management structure, minority ethnic staff were reliant on advice and support given through ABPO and NAAPS, their internal staff group or, in the case of many clerical and administrative staff, the union. Managers and other staff looked to line management for support, with help and guidance offered, as appropriate, through the personnel department. In the West Midlands, however, two specialist posts had been created, the race equality development officer and the equality of opportunity officer, to support all staff in dealing with race issues and promote equality of opportunity. Such posts provided a valuable resource to the service as a whole.

<sup>93</sup>Ibid, see footnote 62.

#### **Staff views**

- "Black workers should not be isolated in a predominantly white office."
- "Supervision structures which acknowledge where discrimination exists for the individual."
- "Have a consistent policy so that anyone who wishes to do so can attend support group meetings."
- "As a new employee within a brand new team, there seems to be a lot of positive stuff going on. However, at times it would be nice to have someone of colour in a higher position to go to for support and advice."
- "Facilitate attendance at support meetings."
- "Provide adequate support for black staff which includes recognising difference, abilities and limitation."
- "Black officers placed in all white team in racist area."
- "There seems to be an unspoken expectation that black staff must get on with everyone. Black staff are usually perceived to be difficult when they do not relate easily to all white colleagues."

#### **Summary**

- 11.50 The arrangements for induction varied across the services visited but all provided some form of induction for new staff. The first impression on joining the service for 83 per cent of minority ethnic staff responding to the staff circular was a positive one.
- 11.51 The location of minority ethnic members of staff had received varying levels of attention by services. 24 per cent of staff completing the questionnaire felt isolated within their workplace. A number described the stress caused by the isolation. Where attention had been drawn to this fact, only a quarter felt that it had been fully addressed by management. Little apparent effort had been made by management to consider the potentially damaging effects on lone minority ethnic members of staff in teams, whether in rural areas or in particular locations such as prisons.
- 11.52 The circular introducing a national system for performance appraisal in 1993 gave no explicit attention to the need to address the different requirements of minority ethnic staff. All services had either or both a policy or practice guidelines relating to the supervision of staff and their appraisal. However, none made any explicit reference to the needs of minority ethnic staff. 29 per cent of minority ethnic staff rated the quality of supervision that they received from their line manager as unsatisfactory or poor. Over 20 per cent said that they had never been appraised during their time in the service. Appraisals often did not take place on an annual basis.
- 11.53 It was a matter of serious concern to discover the inconsistent quality of supervision and the poor implementation of the appraisal scheme in the majority of the 10 services. Although the failure to implement the system would have a negative

impact on all staff, the lack of confidence expressed by many at their line manager's perceived lack of awareness and sensitivity to cultural difference, together with the absence of specific attention to these issues in the management standards for the service, would mean that staff from minority ethnic groups would be particularly disadvantaged.

- 11.54 Chief officers and probation committee members in all the services stated their active support and endorsement of ABPO and NAAPS during the course of the inspection. Greater clarification was required about the level of support to staff to facilitate their attendance at both national and regional meetings to ensure consistency of provision. The existence, role and function of support groups for minority ethnic staff varied significantly between services. The development of such groups was to the credit of the services concerned and had grown out of the recognition of the critical need of minority ethnic staff to meet together for mutual support. However, only one of the services visited had issued any guidance to middle managers translating the service's commitment, where expressed, to supporting minority ethnic staff into operational reality. Many clerical and administrative staff who were eligible to attend support group meetings expressed reluctance to do so.
- 11.55 The position of staff in those services with few minority ethnic employees required special consideration. It was clear that work needed to be undertaken by management in the future in rural services to provide adequate support mechanisms for their minority ethnic staff.

### **Recommendations**

- 11.56 It is therefore recommended that:

*The Home Office should review the appraisal framework and issue guidance to ensure that it addresses accountability, development needs and support for all staff.*

*CPOs should ensure that the needs of minority ethnic staff are taken into consideration in determining the work base and that appropriate support systems, including supervision, are operating effectively.*



## 12. TRAINING, RETENTION, CAREER DEVELOPMENT AND PROGRESSION

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12.1 This chapter examines the training provided by services to promote race equality and work undertaken to ensure the development and career progression of minority ethnic staff.

### Training

12.2 Recommendation 54 of the Macpherson report into the death of Stephen Lawrence stated that:

*"consideration be given to a review of the provision of training in racism awareness and valuing cultural diversity in local Government and other agencies, including other sections of the criminal justice system."*

12.3 The audit undertaken of services' policies showed that 43 had developed procedures relating to training. Mandatory training was required in:

- 13 of 37 services where anti-racism training was available
- eight of 29 services where race awareness training was available
- 13 of 36 services where training on managing diversity was available
- five of 30 services where training work with racially motivated offenders was available.

12.4 All of the services visited had developed an annual training and staff development plan. A number of the plans referred to the provision of race awareness training, but Merseyside and Nottinghamshire were the only services to refer specifically to the recommendation in the Macpherson report and commit the service to additional training to promote race equality. Although the West Midlands' staff development plan did not address the recommendation in the Macpherson report, it contained extensive references to action to be taken to address the needs of minority ethnic staff and to progress work with racially motivated offenders. Inner London had developed a "Race Issues Training Plan" in which the different training events to be run by the service relating to race were detailed.

12.5 Race equality training was offered by a significant number of the 10 services. Probation services had first instigated

training on race awareness in the mid 1980s and staff in some of the services recalled their reaction to those events. It was evident that for the vast majority of participants the early training courses had had the unfortunate effect of raising anxiety without creating understanding and had left many staff uncertain of what was expected of them.

- 12.6 It was apparent from discussion with staff and managers at all levels that services were both aware of the negative impact of the early training courses and anxious to avoid its repetition. Training, where available, therefore tended to focus on addressing diversity, as in Merseyside where all staff were to be required to complete a distance learning pack specifically commissioned by the service. However, the lack of confidence expressed by staff in working with minority ethnic service users suggested to HMIP that courses to increase cultural awareness needed to be reinforced by additional training on direct work with minority ethnic offenders.
- 12.7 Staff at all levels in every service emphasised the importance of training on race in relation to service delivery but little such training was, however, available. The audit showed that only 22 services provided training on work with minority ethnic offenders. In Inner London, where a significant proportion of the caseload were from minority ethnic groups, all staff were to receive training on work with minority ethnic offenders over a three year rolling programme. The training pack "Making a Difference"<sup>94</sup>, prepared for the South West Training Consortium, focused on key aspects of service delivery from the perspective of working in a rural area in which few minority ethnic people lived. It was considered to be both instructive and helpful by the staff in Avon who had used it. Although the approach adopted will clearly be dictated by the service's particular circumstances, such initiatives were positive and should be a mandatory requirement for all staff.
- 12.8 Similarly, training was also required for managers on aspects of organisational practice with specific reference to the promotion of race equality. This should also be mandatory. Cheshire, Nottinghamshire and West Midlands provided access to the training course run by the Midlands Probation Training Consortium specifically for white managers but attendance was not mandatory. Avon had recently introduced National Vocational Qualification (NVQ) level 4 training for managers which included sessions on supervision and anti-discriminatory practice and had also arranged for managers to attend race equality training through the Bristol City Council. Inner

<sup>94</sup> Tuklo Orenda Associates for South West Training Consortium *Making a Difference - A Positive and Practical Guide to Working with Black Offenders* (1999).

London was the only service to make provision for the training of senior managers in the supervision and appraisal of staff and discipline, grievance and harassment with specific reference to race. Despite the crucial role of the immediate line manager in the implementation of these procedures, none of the services visited had allowed for similar training of middle managers. The level of training offered to both staff and probation committee members involved in recruitment also varied considerably across services. In South Glamorgan, it was a mandatory requirement for all managers involved in the selection of staff, whereas in Cornwall and West Sussex none was provided.

### Training and positive action

- 12.9 Section 38 of the Race Relations Act 1976 enables employers and other organisations, such as professional associations, to provide training for existing members of staff from minority ethnic groups and encouragement to enable them to take advantage of opportunities for work in which they had been under-represented. In emphasising the importance of positive action, the CRE<sup>95</sup> commented:

*"Opportunities for employees to develop their potential through encouragement, training and careful assessment are also part of good employment practice. Many employees from racial minorities have potential which, perhaps because of previous discrimination and other causes of disadvantage, they have not been able to realise, and which is not reflected in their qualifications and experience."*

- 12.10 Merseyside and West Midlands were the only services to have instigated specific measures to address the developmental needs of minority ethnic staff through the staff training plan. In Merseyside, extra provision had been identified for training minority ethnic staff, the outcome of which was to be evaluated. In West Midlands, action to address the particular needs of minority ethnic staff formed an integral part of the current staff development plan and a number of initiatives had been established for all staff from which minority ethnic staff would benefit. These measures were to be supported by mentoring, work-shadowing and by provisions such as the learning set established for newly appointed SPOs from minority ethnic groups.

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#### Staff views

- *"Training should be moving away from 'anti-discriminatory', which implies a power imbalance and is not enabling to affirmation. This celebrates the contribution of ethnic minorities to the western world and promotes empowerment"*
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<sup>95</sup> Ibid, see footnote 80.

and responsibility.”

- "The service needs to train its managers to manage ADP/EOP issues and not just expect that they will be able to do so. As a shop steward, I have seen many managers becoming fearful of being labelled racist which can lead to inappropriate ways of handling situations. The managers themselves are not always supported in return. Newly appointed SPO managers are not formally trained to handle race issues and I believe that the service should take this as seriously as they do other service delivery issues."
- "I believe there should be more training made available to relief staff. Also supervision should be made accessible to them. Relief staff should not be viewed as just casual workers."
- "Anti-racism does not appear to be a priority in allocating resources. I have been in the service for almost six years and there has been no anti-racism training during that time. The internal inspection on equal opportunity noted that many white staff would welcome training to acquire skills and knowledge to work with people from ethnic minorities who might have specific needs. However, this was not recognised as a priority."

### Career progression and promotion

12.11 The need to consider as a matter of urgency the promotion of minority ethnic staff within the service had been highlighted by the challenging targets set by the Home Secretary<sup>96</sup> for the progression of probation managers as shown in table 26. Many of the CPOs and probation committee members seen during the course of the inspection commented upon their concern at the low number of minority ethnic staff at middle and senior manager level.

Table 26: Targets for the progression of probation grade managers (Source: Report to Home Secretary [see footnote 74])

	Target type	Target	Current level December 1997	Milestones		
				2002	2004	2009
SPO grade %	National	7%	3.4%	5.1%	5.5%	6.5%
Numbers		70	35 out of 999	51	55	65
ACPO/Area manager grade %	National	7%	1.9%	3.6%	3.6%	5.2%
Numbers		17	5 out of 258	9	9	13
DCPO/CPO grades %	National	7%	0.0%	1.4%	2.9%	4.3%
Numbers		5	0 out of 70	1	2	3

12.12 In order to offer staff the opportunity for career development, all the services visited, with the exception of South Glamorgan, would normally offer any vacant post to internal candidates of the same grade unless the nature of the vacancy made it inappropriate to do so. Avon was the only service amongst those visited who adopted the practice to limit the process to two sequential moves. The practice offered staff the benefits of extending their experience through involvement in a

<sup>96</sup> Ibid, see footnote 74.

different area of work. A number of services, such as Cheshire, Nottinghamshire and West Midlands, had developed policies directed at probation staff which limited the tenure of any post to a stated maximum period. The purpose of mobility policies was to ensure that the operational requirements of the services were met as well as to enhance the career development of staff. Inevitably, these aims could at times prove conflicting but it was important that, where the operational requirements of the service dictated a deviation from the principles of the mobility policy, the reasons were transparent and properly communicated.

12.13 According to the questionnaire sent to minority ethnic staff, 45 per cent of those who responded had been encouraged to apply for promotion and had been offered help by the service in progressing their career. Although this proportion was considered acceptable by HMIP, given the range of ambition, ability and aptitude reflected in any staff group, it had clearly not proved sufficient to secure the promotion of minority ethnic staff in any numbers, as demonstrated during the past 10 years. Measures taken included:

- the offer of training, support and guidance
- the opportunity either to deputise for a line manager or to act in a senior position on a temporary basis.

12.14 Minority ethnic staff interviewed during the course of the inspection consistently remarked on their perception of being excluded from the informal networks to which they believed white staff had access but it was difficult to check the validity of this perception. However, a number of factors contributed to this perspective which included the failure of the majority of services to develop and consistently implement policies to address the cover of managerial posts during absence (acting-up arrangements), to facilitate access to specialist roles and, as cited by many minority ethnic staff, to recognise experience gained outside their normal role; for example, as officials within ABPO or NAAPS or within community groups as relevant.

12.15 For minority ethnic staff who had applied unsuccessfully for advancement, the level and usefulness of the feedback varied considerably. According to the questionnaire sent to staff, although 75 per cent of those who responded said that they had been offered feedback after applying unsuccessfully for posts, only 58 per cent of those receiving feedback viewed it as helpful. The importance and benefit of structured feedback was accepted by West Midlands, where feedback was offered to all candidates but particular attention was paid to the needs of minority ethnic staff by the ACPO with responsibility for race

issues who worked with individuals to advise them on application and interview skills.

#### **Staff views**

- "I have received a lot of encouragement to apply for seniority. Feedback following application for post was very helpful. Follow-up call from ACPO prompt and very encouraging."
- "Have been for several promotion related jobs and felt scored well only to be told was unsuccessful and verbal feedback over phone was not convincing."
- "I was able to apply the information given when I applied for another post. It was accurate and positive."
- "Plenty of encouragement from wonderful colleagues. Feedback helped me improve my technique at interview."
- "As we move into the new millennium, the powers within the service need to seriously address this problem and not just play lip-service. We have the ability and experience for higher management - so let us see movement in the area of promotion."
- "Black and ethnic people have no confidence in the present system. Although I have acted up as SPO nothing in the world could encourage me to apply for an SPO position in the service as it stands today."
- "I feel a sense of despair at the current experience of black staff in this service and nationally. Despite my initial life-long commitment to remain in this service I now feel that, if I am to achieve my career potential as a manager, I must leave the service. Other criminal justice agencies, such as the Prison Service or the Police are becoming more likely options."
- "When I joined the service 30 years ago, I was subject to racism in all its forms. It effectively stopped me from progressing upwards."

#### **Support for managers**

12.16 The report to the Home Secretary on minority representation in the probation service<sup>97</sup> stated:

*"The relatively small number of minority ethnic managers at middle and particularly senior levels means there are relatively few role models for minority ethnic staff in junior grades. It also means that such managers can suffer from lack of support and isolation within the workplace, and for those managers living in areas with a low minority ethnic population, within the community too."*

12.17 Five of the 10 services visited had no managers from minority ethnic groups. In the remaining five services, managers described varying experiences of support in their supervisory role. All had access to local support groups but clearly gained considerable benefit from meeting with other minority ethnic managers through attendance at the "Black Managers Group" run by ABPO. Training was provided through access to relevant national courses.

12.18 In Inner London, a support group had been established specifically for minority ethnic managers within the service. The size of the service also allowed for the development of informal personal networks which provided much valued avenues for support. On a more formal level, however, the provision of

<sup>97</sup> Ibid, see footnote 74.

professional support and guidance was usually accessed through the line manager. As a result of concerns expressed through the Race Issues Advisory Group about the need for additional support to be offered to newly-promoted SPOs from minority ethnic groups, mentors had been identified for the three most recently appointed, their relevant line managers briefed and workload relief made available.

- 12.19 In the West Midlands, similar work had been undertaken by the SPO with responsibility for training with a group of recently appointed managers from minority ethnic groups. They identified the importance of acknowledging the context of racism in which they worked and the need for advice and support in dealing with it. As a result, the service established a learning set for recently appointed minority ethnic managers to enable them to address these issues.
- 12.20 According to those minority ethnic managers who responded to the questionnaire, the majority enjoyed positive relationships with their work colleagues at all levels. 85 per cent described their relationship with their line manager and 89 per cent with white colleagues as good or excellent. These were extremely positive results which reflected well on all concerned. The experience of both Inner London and West Midlands demonstrated, however, both the importance and the benefits of services providing additional support to managers from minority ethnic groups, particularly following appointment, to ensure that they were adequately supported to perform their managerial role effectively in a predominantly white organisation.
- 12.21 Little attention had been given to the needs of white managers in the supervision of staff from minority ethnic groups in the vast majority of the services visited and it was apparent during the course of the inspection that many felt ill-equipped, either by their training or the support offered by the service, to do so. Managers in all 10 services voiced their lack of confidence in managing minority ethnic staff, raising questions about the quality of their engagement with minority ethnic staff both in terms of the support offered as well as their ability to hold them to account. Training, where available, tended to be generic and open to all grades of staff, as with the course on "Working with Difference" in Inner London. However, in most instances, attendance on courses was not mandatory. West Midlands was the only service to require all white managers to attend workshops on the supervision of minority ethnic staff. This practice is commended and its adoption should be considered by other services.

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**Staff views**

- "Black managers need to outperform their colleagues to be valued."
  - "You are expected to outperform your white colleagues. Your absence is
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highlighted a lot more. Your work is highlighted and held up for critical appraisal a lot more. A complaint from a white member of staff is given 200 per cent attention and you are treated like a convicted offender."

- "Whether there are expectations or not, the pressure feels real to those from minority ethnic groups."
- "Black managers invariably seem to be placed in deprived areas with teams who are under-performing and difficult to manage. The support these managers receive from management is questionable. This deters me from becoming a manager."
- "I believe Black managers are over-policed."
- "Minor mistakes are often blown out of all sense of proportion, even though white colleagues do the same."

### Exit interviews

12.22 According to ACAS:<sup>98</sup>

*"An exit interview can provide useful pointers that may help the firm to recruit more suitable employees and identify problem areas within the organisation."*

12.23 In order to encourage employees to be frank about their reasons for leaving a particular job, ACAS suggested that the interview should be carried out by an individual other than the line manager and conducted away from the normal place of work. The reason for the interview should be fully explained to the individual who should be told that the interview is confidential. The individual should be reassured that any views expressed during the interview will not adversely affect their reference or chances of future employment.

12.24 Of the 10 services visited, six either offered staff the opportunity of an exit interview or sent them a questionnaire. The most detailed system was operated by Avon who sent out an anonymous questionnaire to staff together with the offer of an interview with a member of the personnel department. The questionnaire was accompanied by a letter reassuring the individual that the information obtained would be used only to inform the service's practice and not to the individual's detriment. Although the information gained through exit interviews in all services was used to inform organisational practice, no attempt was made by any to collate the information or to report back on the process and the findings to the probation committee.

12.25 South Glamorgan and Avon were the only services to have undertaken any other form of attitudinal staff survey. Following the service restructure in 1995, Avon approached the University of the West of England to investigate the impact of the changes and to elicit staff views. This proved a valuable and informative exercise but it was specific to a particular situation and not intended to be repeated. The South Glamorgan

<sup>98</sup> Ibid, page 82.



service also made use of confidential surveys and recently focused on staff communication. None of the services visited had adopted any exercises so far with regards to the promotion of race equality. Such initiatives were to be encouraged, provided that the information obtained was used to inform the development of policy or organisational practice.

### Summary

- 12.26 All 10 services visited had developed an annual training and staff development plan. A number of plans referred to the provision of race equality training. However, only Merseyside and Nottinghamshire services had followed the recommendation in the Macpherson report and committed themselves to additional training to promote race equality. Although staff at all levels emphasised the importance of training on race in relation to service delivery, little such training was available to date. Despite the crucial role of the line manager in the supervision and appraisal of staff and in the discipline, grievance and complaints procedures, Inner London was the only service to have given any consideration to the training of senior managers with specific reference to race equality. None of the services had allowed for similar training for middle managers, although a number of services provided access to external management courses. Merseyside and West Midlands were the only services to have instigated specific measures to address the developmental needs of minority ethnic staff through the staff training plan.
- 12.27 In order to offer staff the opportunity for career development, all the services had normally offered any vacant post to internal candidates of the same grade unless the nature of the vacancy made it inappropriate to do so. 45 per cent of those completing the questionnaire maintained that they had been encouraged to apply for promotion and had been offered help by the service in progressing their career, but it had clearly not proved sufficient to secure the promotion of minority ethnic staff in any numbers. Minority ethnic staff consistently remarked on their perception of being excluded from the informal networks to which they believed white staff had access. For minority ethnic staff who had applied unsuccessfully for advancement, the level and usefulness of the "feedback" offered varied considerably.
- 12.28 Five of the 10 services had no managers from minority ethnic groups. Of those that did, minority ethnic managers described varying levels of support in their managerial role. The vast majority described themselves as enjoying positive relationships with their work colleagues at all levels. Of

those who responded to the questionnaire, 85 per cent described their relationship with their line manager, and 89 per cent with white colleagues, as good or excellent.

- 12.29 Little attention had been given to the needs of white managers in the supervision of staff from minority ethnic groups in the vast majority of the services visited. White managers in all services voiced their lack of confidence in managing minority ethnic staff. It was apparent that many white managers felt ill-equipped either by their training or the support offered by the service to supervise minority ethnic staff effectively.

### **Recommendation**

- 12.30 It is therefore recommended that:

*Probation committees and CPOs should ensure the inclusion of appropriate mandatory training for all staff to promote race equality in annual training and staff development plans from 2001 giving priority to:*

- (a) committee members;*
- (b) white managers supervising minority ethnic staff;*
- (c) minority ethnic managers;*
- (d) race equality training, including raising cultural awareness, and considering implications for specific aspects of service delivery or organisational practice;*
- (e) work with racist and racially motivated offenders.*

*Probation committees and CPOs should identify and implement positive action measures to increase the level of minority ethnic representation at middle and senior manager grades in order to achieve by 2002 the initial targets set by the Home Secretary.*

## 13. DISCIPLINE, GRIEVANCE, RACIAL HARASSMENT AND COMPLAINTS

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- 13.1 This chapter assesses the current position regarding the standards of conduct required of staff and the procedures in place to ensure that those standards are maintained.

### The discipline procedures

- 13.2 A model procedure for discipline issues was approved by the National Negotiating Council (NNC) for probation services and set out in the Conditions of Service for all probation staff issued in April 1997.<sup>99</sup> The code stated:

*"To assist good industrial relations it is necessary to demonstrate that individual employees will be treated fairly, reasonably and consistently in matters relating to discipline and capability.*

*In any organisation it is important to have rules and procedures to stimulate order and fairness in the treatment of individuals. These ... should be readily understood by both management and staff at all levels; they are designed to assist in setting standards of performance and conduct."*

- 13.3 The procedure met the requirements of the ACAS Code of Practice on Disciplinary Practice and Procedures in Employment<sup>100</sup> which emphasised the importance of employees knowing the standards of conduct expected of them and advised employers to draw up a set of disciplinary rules to support the procedure. The NNC considered that such rules could not properly be developed at a national level and recommended that probation committees formulate local procedures with reference to the ACAS guidelines.

- 13.4 The majority of the services visited relied on statements made within relevant service policy documents to define the expected

<sup>99</sup> National Negotiating Council for the Probation Service *Conditions of Service - Interim Document* (April 1997) This interim document brought together the Codes of Condition of Service covering POs and PSOs (the "Green Book"), Administrative, Professional, Technical and Clerical (APT&C) staff (the "Purple Book") and manual staff (the "White Book"). The document did not of itself alter any local agreements which differed from the existing national provisions.

<sup>100</sup> Advisory, Conciliation and Arbitration Service *ACAS Code of Practice 1 - Disciplinary Practice and Procedures in Employment* (1997). The Code of Practice was issued under Section 201 of the Trade Union and Labour Relations (Consolidation) Act 1992 and came into effect by order of the Secretary of State on 5 February 1995.

standards of behaviour. West Midlands' discipline procedures referred to "*ridicule, offensive, humiliating or intimidating remarks, unreciprocated or unwelcome looks, comments ... deliberate and unnecessary physical contact and physical violence*" as examples of behaviour that would not be tolerated. Not all the statements were as clear or explicit and, given their inclusion in the body of the policy, were not always immediately accessible or widely communicated to staff.

- 13.5 In Inner London, a "Code of Conduct for Staff" had been developed in 1991 and was circulated to all staff. It covered the personal approach of staff to their work and their behaviour towards others as well as other related matters. It emphasised the need for staff to behave "*with common courtesy*" to all individuals and stated that conduct which reflected adversely on the service, such as racial harassment, whether within the workplace or not, could result in disciplinary action. The document was a clearly written and comprehensive piece of work but did not appear widely known across the service. Similar work had been undertaken more recently by West Sussex, where a code of conduct had been circulated to all staff in September 1999 with a covering letter from the CPO. The code made reference to both equality of opportunity and to anti-discriminatory practice.
- 13.6 With the exception of Cornwall, whose policies were in the process of being drafted, all 10 services had established discipline procedures. It was positive to note that all followed the ACAS guidelines and most were clear and specific and accessible to staff. The Cheshire service followed the example set by the NNC in its conditions of service<sup>101</sup> by developing separate procedures for probation and administrative and clerical staff. Inner London adopted a similar approach but continued to rely on the previous codes and conditions of service, now obsolete, for APT&C staff. This practice needed to be reviewed as a matter of urgency.
- 13.7 According to the staff questionnaire, only 11 per cent of minority ethnic staff believed that the discipline and grievance procedures were applied "completely fairly" in their services, although a further 50 per cent believed that they were fairly "to some extent." The uncertainty expressed about the integrity of the application of the procedures, confirmed by discussion with staff in all services, was of considerable concern to HMIP, as was the failure by the majority of services to provide effective oversight of their implementation through monitoring. The services concerned maintained that monitoring the procedures by race and ethnic origin was difficult to

<sup>101</sup> Ibid, see footnote 99.

achieve due the sensitivity of the material, the need to maintain confidentiality and because many incidents were properly dealt with informally at a local level.

- 13.8 Inner London was the only service of those visited to have attempted any form of monitoring of its discipline procedures. As a result of concerns raised by the Race Issues Advisory Group, the service undertook an analysis of all disciplinary and capability hearings between January 1998 and November 1999. The results showed a disproportionate number of minority ethnic staff disciplined by the service. A similar exercise was planned in relation to grievance proceedings and the implications of the findings of both studies were to be considered by the service. The action by Inner London is commended and provides a useful example of transparency of procedures for other services.

### **The grievance procedure**

- 13.9 The Conditions of Service approved by the NNC stated that:

*Matters appropriately dealt with under the procedure include all questions as to the rights of officers under the Code of Conditions and any other matter not relating to individual discipline. Probation committees shall ensure that each probation officer is fully aware both of the steps available to him or her as an individual under the grievance procedure drawn up by the committee and of the name and designation of the officer to whom he or she should apply for the purpose of seeking redress of any grievance relating to his or her employment."*

- 13.10 In guidelines issued to employers,<sup>102</sup> ACAS stressed the importance of settling any grievance fairly, quickly and at a level closest to the point of origin:

*"For this reason it is usually advisable for the first stage to be between the employee and his or her immediate supervisor or line manager. This can also help to maintain the authority of the supervisor and can often lead to the issue being resolved directly between the parties without the involvement of a representative."*

- 13.11 All the services visited had established grievance procedures for staff. In the main, these tended to be comprehensive documents which provided a step-by-step account of the management of the grievance. The immediate line manager was

<sup>102</sup> Advisory, Conciliation and Arbitration Service *Employment Handbook* (1998).

given as the first point of contact in the majority of cases. All services apart from Merseyside, however, formally stated that a more senior manager or member of the personnel department could be approached where the aggrieved member of staff considered either that the line manager was responsible for or had contributed to the situation. The provision for other avenues for advice and guidance outside the line management structure should be considered by all services.

### **Racial harassment policies**

13.12 The Criminal Justice and Public Order Act 1994 introduced a new offence of intentional harassment. The offence covered all forms of harassment, including racial harassment in the workplace.

13.13 The importance of addressing the issue of racial harassment within the workplace was emphasised by the CRE in advice to employers<sup>103</sup> in 1995:

*"The Race Relations Act 1976 does not use the term 'racial harassment', but industrial tribunals are increasingly willing to conclude that racial harassment and abuse at work is 'less favourable treatment on racial grounds', and therefore constitutes unfair discrimination.*

*Complaints of racial harassment may be made against the employer as well as the harasser. Under the Race Relations Act 1976, employers are liable for any discriminatory acts committed by their employees in the course of employment. It is no defence for employers to say that they did not know about the discrimination or that they would not have approved of it if they had known."*

13.14 The CRE indicated that action by employers to demonstrate that they had taken such steps, as reasonably practical, to prevent racial harassment would be considered by tribunals when determining liability. The CRE recommended that as a first step employers needed to acknowledge that racial harassment could occur within the workplace and adopt a policy:

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

<sup>103</sup> Commission for Racial Equality *Racial Harassment at Work* (1995).

- 13.15 The CRE recommended that where appropriate, as with other matters of grievance and complaint, attempts should be made informally to reach resolution. The policy should provide for the support of the complainant and ensure that they were not victimised in any way whilst the matter was being investigated. Where a complaint of racial harassment was made at the same time as disciplinary action was being taken against the complainant, the harassment complaint should take precedence and the disciplinary procedures suspended. It was acceptable for complaints of racial harassment to be dealt with by a generic grievance procedure, provided that where the line manager or supervisor was the subject of the complaint, the grievance procedure allowed for a more senior officer to be approached. This approach is supported by HMIP.
- 13.16 All services had either established separate policies/procedures or guidelines addressing racial harassment or made reference to the issue of racial harassment in the equal opportunities policy or anti-racism policy. The majority provided guidance to staff on a difficult issue in a sensible and sensitive way. Avon, Inner London, South East London, Merseyside and West Midlands were the only services formally to have adopted a definition of racist behaviour, however, and it was apparent during the course of the inspection that no common understanding existed across individual services about what constituted racist behaviour.
- 13.17 The policy adopted by West Midlands in 1992 gave advice to both managers and employees and allowed for the involvement of the race equality development advisor or the equality of opportunities officer for advice. The policy also stated that a complaint may be made by a third party who felt offended by the harassment of another employee or client of the service. The complainant was advised of the option of raising a formal grievance if no action was taken as a result of the complaint, and the harassment continued. A similar approach was adopted in Avon, where certain members of staff were identified as racial harassment counsellors with the brief of advising and supporting colleagues who had been the victim of racial harassment.
- 13.18 HMIP was extremely concerned to learn that over half the staff who responded to the questionnaire had experienced racist behaviour during the course of their work, 52 per cent from offenders and 57 per cent from other colleagues and members of external organisations. In both instances, 77 per cent of the staff concerned referred the matter to their line manager. The staff member was fully satisfied with the outcome in only a third of the cases involving offenders and nearly half of those

involving other members of staff and external organisations. Details of the breakdown by service are given in table 27.

Table 27: Staff's experience of racism (Source: Staff questionnaire)

	Racism experienced from offenders	Incident referred to manager	Outcome satisfactory	Racism experienced from colleagues/ other source	Incident referred to manager	Outcome satisfactory
Avon	2 (28%)	1	1	4 (67%)	2	0
Inner London	42 (51%)	32	9	48 (59%)	35	10
South East London	5 (83%)	4	0	3 (50%)	2	1
Merseyside	5 (50%)	4	2	6 (67%)	6	4
Nottinghamshire	9 (60%)	9	4	8 (53%)	7	4
West Midlands	26 (52%)	20	9	26 (54%)	21	10
Cheshire/South Glamorgan/West Sussex	4 (80%)	3	0	3 (60%)	2	1

**Commentary:**

- The highest proportion of staff to report racist abuse from offenders was in South East London. Although four of the five incidents recorded were referred to the line manager, none were dealt with to the satisfaction of the complainant.
- Avon and Merseyside had the highest proportion to report racist abuse from colleagues and other sources.
- In Merseyside, all these incidents were reported to the line manager and four of the six were dealt with satisfactorily.
- The level of satisfaction at the outcome of action taken by the line manager to address an allegation of racism was disturbingly low in the majority of services.

13.19 One in four members of staff who responded to the questionnaire were unaware of the action open to them if they experienced racism within the workplace. Many staff were consequently uncertain of their service's reaction to complaints of racial harassment, as shown in table 28.

Table 28: Dealing with racist behaviour\* (Source: Staff questionnaire)

	% clear of service's response to racist behaviour by staff	% clear of service's response to racist behaviour by offender	% clear of service's response to racist behaviour by member of other



			organisation
Avon	4 (57%)	3 (43%)	1 (14%)
Inner London	31 (39%)	46 (60%)	19 (25%)
South East London	1 (17%)	1 (17%)	0 (0%)
Merseyside	8 (89%)	7 (78%)	5 (56%)
Nottinghamshire	5 (36%)	9 (64%)	4 (29%)
West Midlands	23 (46%)	29 (58%)	16 (33%)
Cheshire/South Glamorgan/ West Sussex	2 (40%)	3 (60%)	2 (40%)

\* Services where less than five staff members responded to the question have been excluded from the table.

**Commentary:**

- Many staff in all services were uncertain of their service's response to racist behaviour from colleagues and members of external organisations.
- Merseyside had the highest proportion of staff who stated that they were clear as to the service's response to racist behaviour.
- The low response from South East London requires greater investigation by the service.

13.20 The worrying feedback from the questionnaire was confirmed by discussion with staff in all services. During the course of the inspection, minority ethnic staff spoke of their experience of watching managers fail to challenge unacceptable behaviour. Staff in all services expressed little confidence in the application of the procedures based on their lack of faith in the ability of some managers to deal effectively with allegations of racist behaviour, their fear of victimisation, of not being believed or labelled a troublemaker and the possible adverse consequences for their career. Female staff in particular spoke of the risk of being stereotyped as either "aggressive" or "unable to cope" if they complained. Because of this, many staff were reluctant to approach their manager with a complaint of racist behaviour.

13.21 It was apparent during discussion with all staff during the inspection that the issue of race was not an easy one to discuss. Many white staff were fearful of being regarded as racist and said they avoided both the subject and the issues. One member of staff spoke for many in describing being called racist as "*worse than being called incompetent.*" The climate in many teams appeared to militate against open discussion between white and minority ethnic staff and subsequently made the informal resolution of complaints about language and behaviour difficult to achieve. Few of the managers interviewed during the course of the inspection expressed confidence in their ability to address racist behaviour amongst staff or to deal

with allegations of racial harassment. Little training was available to managers in this situation to assist them. In the opinion of HMIP, this situation required immediate action and remedy.

13.22 Although both white and minority ethnic staff in Merseyside voiced the same critical comments as their colleagues in other services, they also reported on the development of greater openness on race within the service over the past 12 months, with the first recent appointments of minority ethnic staff to SPO grade within the service and the clear commitment shown by the newly arrived CPO to address institutionalised racism within the service. The introduction of mandatory training across the entire service on issues of diversity, led by the CPO, had assisted in promoting dialogue and greater understanding.

13.23 Examples were given during the course of the inspection from Nottinghamshire and West Midlands of how racist incidents could be reviewed by teams and used to inform both individual and group behaviour. In West Midlands, support for both staff and managers was available through the mediation of the race equality development officer or the equality of opportunity officer. Similarly, provision for an external consultant had been made in South Glamorgan.

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#### **Staff views**

- "Would like to see them act on white staff's racist behaviour. Less minimisation of racist behaviour and incidents. I often wonder how the service expects Black offenders to get a fair deal when they themselves seem oblivious to what I experience as a Black officer."
  - "A complaints procedure where the complainant is not labelled and stereotyped."
  - "Stop making the victim out to be the perpetrator."
  - "Take racial complaints seriously without the onus always being on the person of minority."
  - "I do not know of any grievance taken successfully on the grounds of racial harassment."
  - "Believe that we won't get a fair service from the grievance procedures, therefore tend not to use them."
  - "The issue is always fudged. Some managers sit on issues, hoping that they will go away."
  - "There is no independent element to these policies, and that would help."
  - "Too often white colleagues intellectualise racism encountered by Black and ethnic minority colleagues."
- 

#### **The complaints procedure**

13.24 A model complaints procedure,<sup>104</sup> developed to meet the minimum requirements of the Citizen's Charter, was approved by ACOP National Council in 1993. A complaint was defined as:

<sup>104</sup> Association of Chief Officers of Probation *Model Complaints Procedure* (August 1993).

*"an issue raised formally by a person who is not an employee of the probation service which concerns the service or the actions of its employees."*

No reference was made by the model procedure to the need to give any special consideration where either the complainant or the person against whom the complaint was made was a member of a minority ethnic group.

- 13.25 All services visited had a complaints procedures directed at members of the public, including service users. The majority were clearly written in an open, friendly style and supported by leaflets and publicity material. The leaflets prepared by the West Midlands and West Sussex services were particularly commendable. The language used in the policy adopted by the West Midlands, although formal, was accessible and easily understood. Not all referred explicitly to complaints about racist behaviour. The leaflets produced by both West Sussex and Cornwall, however, made reference to the CRE as an example of an appropriate body to whom to appeal if not satisfied by the service's response. Some services, such as Avon, produced notices that were publicly displayed which contained clear and unequivocal statements condemning racist behaviour.
- 13.26 The provision of leaflets and information sheets in other languages presented most services with difficulty. As one of the larger services covering a large cosmopolitan area, West Midlands was able to provide information in a number of the languages most frequently used in the local community. Notices were also displayed within offices indicating that interpreters could be arranged to assist individuals wishing to make a complaint. A similar approach was adopted in Nottinghamshire where, although leaflets, etc. were not immediately available in different languages, a statement was included in the service's letterhead indicating that translations of any documents and a confidential interpreting service were available on request.
- 13.27 In common with the ACOP model procedure many of the complaints procedures used in the services visited stipulated that complaints should be made in writing. Whilst emphasising the need to acknowledge the receipt of the complaint, many did not explicitly state that the service should do so in writing. No information was available as to the effect of these practices on people from minority ethnic groups. However, it must be assumed that it would present an additional difficulty to people to whom English was not their first language.

## Comment on the discipline, grievance racial harassment and complaints procedures

13.28 The CRE <sup>105</sup>stated that:

*"Employers should not ignore or treat lightly members from particular racial groups on the assumption that they are over-sensitive about discrimination.*

*It is recommended that in applying disciplinary procedures consideration should be given to the possible effect on an employee's behaviour of the following:*

- *racial abuse or other racial provocation*
- *communication and comprehension difficulties*
- *differences in cultural background or behaviour."*

13.29 Despite the CRE's recommendation, few services' procedures made explicit reference of the need to consider the particular position of people from minority ethnic groups in implementing the discipline, grievance, and complaints procedures.

13.30 Although many of the equal opportunities policies produced by the 10 services referred to the process of victimisation, as defined by the Race Relations Act 1976, it was surprising to find that none addressed victimisation as part of the discipline or grievance procedure. The necessity of supporting the complainant was, however, recognised in many of the harassment policies. Furthermore, few of the services set a time limit for settling cases brought under the harassment policy or the grievance or complaints procedures.<sup>106</sup>

13.31 In many services, the policies had developed incrementally and were not cross-referenced. The interaction between the racial harassment and the discipline and grievance procedures was complex and, at times, confusing. The nature of the procedures was such that the only course of action open to any member of staff who had (a) brought a complaint of racial harassment to their line manager's notice and (b) had it minimised or ignored was to take a grievance against their supervisor. HMIP are of the opinion that this situation could be averted by extending the complaints procedures to apply to members of staff as well as the public.

<sup>105</sup> Ibid, see footnote 8.

<sup>106</sup> In the case of *Clarke v BTR Fatari Ltd*, the employers took one month to consider his complaint of racial harassment. The delay in resolving the case was regarded as unacceptable by the industrial tribunal.

## Summary

- 13.32 With the exception of one service, whose policies were in the process of being redrafted, all 10 services had established disciplinary procedures. All followed the ACAS guidelines and most were clear, specific and accessible to staff. However, only 11 per cent of staff who completed the questionnaire believed that the procedures were applied completely fairly in their service. Inner London was the only service to have attempted any form of monitoring of its discipline procedures which had shown between January 1998 and November 1999 that a disproportionate number of minority ethnic staff were disciplined by the service. All the services had established discipline procedures for staff. In the main, these tended to be comprehensive documents which provided a step-by-step account for the management of a grievance.
- 13.33 All services had either established separate policies/procedures or guidelines addressing racial harassment or made reference to it in their equal opportunities or anti-racism policy. The majority provided guidance to staff on a difficult issue in a sensible and sensitive way. However, it was clear that no common understanding existed across individual services about what constituted racist behaviour. Over half the staff who completed the questionnaire had experienced racist behaviour during the course of their work, 52 per cent from offenders and 57 per cent from colleagues or members of external organisations. 77 per cent had referred the matter to their line manager but only 33 per cent where offenders were involved and 50 per cent involving other members of staff were fully satisfied at the outcome. Of those completing the questionnaire, 25 per cent were unaware of the action open to them if they experienced racism within the workplace. A significant number of minority ethnic staff expressed little confidence in the application of the procedures based on their lack of faith in the ability of some managers to deal effectively with allegations of racist behaviour, their fear of victimisation and the possible adverse consequences for their career.
- 13.34 Many white staff were apprehensive of being regarded as racist and said that they avoided both the subject and the issues. The climate in many teams made the informal resolution of complaints about language and behaviour difficult to achieve. Few staff expressed confidence in their ability to address racist behaviour amongst staff or to deal with allegations of racial harassment.

### **Recommendation**

13.35 It is therefore recommended that:

*The Home Office should ensure that a separate complaints procedure is established so that any complaints made by probation service staff are given proper consideration.*

*Probation committees and CPOs should adopt the definitions of racist behaviour and institutionalised racism given in the Macpherson report as the basis for disciplinary and complaints procedures and ensure that the implications of this change are reflected in future policy and practice guidance.*



## 14. MONITORING AND THE USE OF INFORMATION

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- 14.1 This chapter examines the monitoring undertaken by services to promote race equality and whether the data collected informed services in their role as employers and is used to improve practice with minority ethnic offenders.

### Race and ethnic monitoring

- 14.2 A national system of race and ethnic monitoring of probation committee members, probation service staff and persons subject to the supervision of the probation service was introduced from 1 October 1992 and extended to include offenders on whom PSRs had been prepared in 1993.<sup>107</sup> The importance of race and ethnic monitoring was emphasised in a letter sent to CPOs<sup>108</sup> in July 1992 to announce the implementation of the new system:

*"The regular collection and analysis of relevant data is essential for ethnic monitoring at national and local levels if the Home Office and Probation Services are to be able to give effect to their commitments to eliminate racial discrimination. Without such information it is not possible to establish whether discrimination (either in employment or service delivery) exists or the success of policies aimed at eliminating discrimination. Without proper information no decisions can be made about how best to identify, plan and resource any improvements needed."*

- 14.3 Despite the apparent commitment of services to the principle of race and ethnic monitoring, the proportion of ethnic data missing had risen substantially from the mid-1990s. In 1998/99, information on 13 per cent of probation orders and 17 per cent of CS orders was not available. The probation service's figures were consequently omitted from the 1999 publication of criminal justice statistics<sup>109</sup> thus drawing public attention to services' failure to meet their commitment to promote race equality through the collection of information on race and ethnic origin. Although the Home Office had written to individual services to raise concerns about poor completion rates, no action had been taken to address what was clearly a national issue.

<sup>107</sup> As discussed in Chapter 4 of this report.

<sup>108</sup> Ibid, see footnote 17.

<sup>109</sup> Ibid, see footnote 59.



14.4 Table 29 shows the percentage of missing information from the race and ethnic monitoring return rates for probation orders, CS orders and staff from the 10 services visited for 1997/98 and 1998/99.

Table 29: Missing information ethnic monitoring return rates (Source: Probation Statistics 1998)

Race and ethnic monitoring	1997/98				1998/99			
	PO	CS	Probation staff	Other staff	PO	CS	Probation staff	Other staff
Avon	2.2%	4.5%	6.1%	5.1%	2.2%	4.5%	7.8%	6.7%
Cheshire	11.2%	22.1%	3.9%	4.2%	9.8%	29.7%	3.6%	4.1%
Cornwall	1.2%	0.3%	0%	0%	0.3%	0.3%	0%	0%
South Glamorgan	1.1%	2.4%	0%	0%	1.1%	2.4%	0%	0%
Inner London	12.4%	21.4%	2.9%	5.4%	15.3%	13.5%	4.0%	5.3%
South East London	0.8%	0.6%	2.2%	0%	3.5%	3.1%	2.1%	0%
Merseyside	1.8%	0.3%	3.1%	0.6%	1.3%	0.2%	4.9%	1.1%
Nottinghamshire	7.9%	17.6%	2.0%	0%	5.7%	15.4%	0.6%	0%
West Midlands	8.3%	3.5%	4.3%	3.1%	8.3%	3.5%	3.8%	1.8%
West Sussex	7.5%	11.9%	15.3%	35.1%	7.5%	11.9%	7.8%	5.2%

**Commentary:**

- The return rates for Cornwall were consistently high.
- The return rates for South East London and Merseyside did not fall below 5 per cent missing in any aspect.
- A disproportionately high percentage of CS cases in Nottinghamshire had no ethnic group recorded.
- In Inner London, the high percentage of missing returns for CS in 1997/98 fell significantly in 1998/99 but increased for offenders subject to probation orders.
- The low return rates for Cheshire were of particular concern.
- The 1998/99 figures given for probation orders and CS for South Glamorgan and West Sussex were based on the 1996/1997 returns due to doubts about the accuracy of information subsequently submitted, and for Avon and West Midlands on the 1997/98 returns. The failure by these four services to submit reliable data to the Home Office was extremely worrying.

14.5 The services visited had responded to the challenge of completion of the race and ethnic monitoring returns in different ways, the outcome of which would not become apparent until late 2000. In Inner London and West Midlands, the issue

was now given high priority, completion rates of 100 per cent and 95 per cent respectively were set and included as targets in the annual business plan.

- 14.6 In Inner London, achievement of the targets was followed up by borough administrators who addressed team meetings on the importance of completing the forms, chased up individual staff who failed to do so and used the information to inform local analysis of practice. In one borough, the percentage rate of returns increased from 50 to 95 per cent over an 18 month period. Information collated centrally was interpreted at borough level by the borough administrator and used to inform practice. The overall initial success of this proactive response was shown by the reduction in the percentage of missing returns noted in CS, although further work needed to be undertaken in relation to probation orders. In addition, a sub-group established by the Race Issues Advisory Group was asked to advise on the training and guidance to assist staff in the completion of the monitoring forms.
- 14.7 Other services had not responded so rigorously. In South Glamorgan, on being informed by the Home Office that the proportion of race and ethnic data missing for 1999/00 had risen further to 10 per cent of cases at the PSR stage, 7 per cent of probation order and 10 per cent of CS commencements, staff were instructed to complete quarterly, as opposed to annual, returns and were advised on the procedure to complete the forms. West Sussex admitted that the service had given insufficient attention to the completion of race and ethnic monitoring forms and an instruction had recently been issued to all staff to do so. It was apparent from discussion with both middle managers and POs in West Sussex that the reason for the data collection and how it could be used to inform practice was not widely understood. Further concerns were identified by clerical and administrative staff which highlighted the importance of clarification about who was responsible for inputting the information onto the system. This issue had been addressed in Avon through training offered to office managers to enable them to identify specific cases on which information was missing. Further action was required by all the services concerned to supplement the measures taken and ensure that the completion of the monitoring forms was seen as a priority for both managers and staff.
- 14.8 In Cheshire and Nottinghamshire, monitoring data was missing in a disproportionately high percentage of CS cases. In Cheshire, in addition to concerns about the proportion of missing information, service managers also expressed doubts about the accuracy of the data already collated. The concerns expressed by service managers were reinforced by the significant number

of offenders subject to CS who had apparently refused to complete the monitoring form. A similar situation also existed in Nottinghamshire, suggesting reluctance on the part of staff in both services to engage positively with the offender when completing the form. Cheshire and Nottinghamshire were aware of these issues which should be addressed as a matter of urgency.

14.9 It was apparent that, for many staff, the completion of race and ethnic monitoring forms was a mechanistic exercise with little meaning. In almost all of the case files examined, the only section of the form to be completed was that required by the Home Office on self-identification. The section designed to promote a dialogue with the offender about their cultural background and religion to inform supervision was rarely completed. No member of staff interviewed in any of the services visited had experienced any hostility or resentment from offenders when asked to complete the form. However, the high rate of missing returns and the doubts about the accuracy of some of the information obtained, together with the disproportionate percentage of cases in which the information was declined, suggested that in some services staff did not fully understand the importance of the process or feel comfortable with it.

14.10 Avon and South Glamorgan were the only services to have instigated any form of training or to have issued any guidance to staff on the completion of the race and ethnic monitoring forms, although Inner London was preparing to do so. Few made any significant use of the information collated either at team level to inform practice or at a strategic level in discussions with the probation committee or at senior management level. The work was characterised by an absence of:

- targets in the business plan for the completion of race and ethnic monitoring returns
- an action plan to achieve the targets set in the shortest possible time
- a nominated chief officer with responsibility for implementation of the action plan and achievement of the targets
- training and support for staff, including the lack of mandatory training to managers in the use of information
- feedback of information by division, team or individual
- oversight by managers.

These issues needed to be urgently addressed.

## Work with offenders

- 14.11 Inner London and West Midlands were the only services to undertake comprehensive monitoring of service delivery by race and ethnic origin. In other services, information, even when available, was not collated in a format that was accessible to practitioners or used to inform practice. It was disappointing, for example, to see that in Nottinghamshire the data collated on the number of referrals to groups was not being used to monitor trends or highlight inconsistencies. It was difficult to see how the majority of services could monitor their performance or make any strategic decision on provision for minority ethnic offenders without this information.
- 14.12 In West Midlands, targets had been set for community sentence order commencements by race and gender and the publication of information on their achievement by division was said to make the process of data collection more meaningful to staff. This practice should be considered by all services. The service had also established a "tariff score" through the analysis of the percentage of offenders commencing supervision with and without previous convictions which had revealed that Asian offenders were being made subject to community sentences for a lower level of seriousness than their white counterparts. The implications of this finding were being considered.
- 14.13 Although all services collated information on CS commencements by race and ethnic origin, Inner London was the only service of those visited to collate and actively use information on compliance. The service compiled a monitoring summary for offenders subject to CS which included the number of commencements and terminations of orders, type of placement and take-up of the order by race and gender. The summary also included an "end of order" questionnaire which suggested that 6 per cent of those interviewed had experienced some form of discriminatory behaviour whilst subject to CS. The information obtained was used to inform the development of placements and the identification of training and support needs for CS staff. This practice was reflected in the improved rate of ethnic monitoring returns recorded for CS by the service and provided a good example of how monitoring can be used effectively to change practice.
- 14.14 It was not surprising, given the recent implementation of the legislation introducing racially motivated crime and the small numbers currently involved, that few services had undertaken any form of monitoring in relation to racially motivated offenders. It was, however, positive to note the action taken by Nottinghamshire in collating the numbers and outcomes of cases appearing before the court, and Merseyside through a

caseload audit to assess the likely level of future provision. Both services had found the numbers so far to be small. This finding was confirmed by an audit of supervision plans to assess offender needs in West Midlands. The majority of services did not yet have:

- systems in place to monitor the likely number of racially motivated offenders on the caseload
- information to inform decisions about the supervision of these cases.

### Organisational practice

14.15 All services audited the staffing establishment by ethnic origin through the national monitoring system. Avon, Inner London and Nottinghamshire were the only services to monitor other aspects of organisational practice by race and ethnic origin such as sickness absence, turnover of staff and discipline and grievance procedures. As a result, none of the other services visited had the data to assess whether their procedures were being implemented consistently.

14.16 Avon illustrated the dilemmas faced by some services in the dissemination of potentially sensitive information where there were low numbers of minority ethnic staff employed by the services. Information on the establishment by race and ethnic origin was presented to the probation committee but other data on the number of applicants for posts, sickness levels, turnover of staff and discipline and grievance procedures was retained within the personnel department in order to maintain the confidentiality of the material. Whilst the difficulties inherent in its circulation were recognised, the lack of transparency did not promote confidence in the procedures. The service needed to consider how the information could be made more widely available, whilst still maintaining the anonymity of persons involved.

14.17 In Inner London, a significant amount of work had been undertaken by the service to audit its organisational practice which provided a good example of the importance of undertaking such activity. A "snapshot" of the staffing establishment had been taken and assessed against the targets established by the Home Secretary for the employment of minority ethnic staff. It had shown that although the service was meeting the figures overall, there was an imbalance in the number of minority ethnic staff in senior management positions and the number of Asians employed. In addition, on the instigation of the Race Issues Advisory Group, an audit had been undertaken by ethnic origin of the number of disciplinary proceedings since 1997,

complaints received during 1998/99 and an analysis of staff turnover. The information obtained so far showed that a disproportionate number of minority ethnic staff had been involved in disciplinary proceedings and that the proportion leaving the service had increased since 1996. The information was being referred back to the Race Issues Advisory Group for their consideration so that proposals could be made to management.

### Summary

- 14.18 Despite the apparent commitment of services to the principle of race and ethnic monitoring, the proportion of ethnic data missing had risen substantially from the mid-1990s. In 1998/99 Cornwall, South East London and Merseyside were the only services visited where the proportion of race and ethnic monitoring returns missing had not risen above 5 per cent during the past two years. The performance of other services varied considerably, was of particular concern and required immediate action. Although the Home Office had written to individual services to raise concerns about poor completion rates, no action had been taken to address what was clearly a national issue.
- 14.19 The services visited had responded in different ways. In Inner London and West Midlands, the issue was given high priority with targets set in annual business plans. Other services had responded less rigorously and it was apparent that, for many staff, the completion of race and ethnic monitoring forms was a mechanistic exercise. Further action was required by all the services, with the exception of Cornwall who demonstrated what could be achieved, to ensure that the completion of the monitoring forms was seen as a priority for both managers and staff.
- 14.20 With the exception of Inner London and West Midlands, none of the services visited made any significant use of the information collated either with staff or to inform discussions with the probation committee or at senior management level. Only Avon and South Glamorgan had either instigated training or issued guidance to staff on the completion of the race and ethnic monitoring forms, although Inner London was preparing to do so. Under these circumstances, the poor response of staff in some services was not surprising but needed to be addressed.
- 14.21 There was little evidence of the use of information on race and ethnic origin to inform practice in the majority of the services visited. Inner London and West Midlands were the only services to undertake comprehensive monitoring of service

delivery by race and ethnic origin. In other services, information, even when available, did not appear to be collated in a way accessible to practitioners and used to inform practice.

- 14.22 Avon, Inner London and Nottinghamshire were the only services to monitor aspects of organisational practice, such as sickness absence, turnover of staff and discipline and grievance procedures, by race and ethnic origin other than the staff composition.
- 14.23 It was difficult to see how the majority of services could monitor their performance, make any strategic decision on provision for minority ethnic offenders or promote race equality on the basis of the monitoring information currently available.

### **Recommendation**

- 14.24 It is therefore recommended that:

*The Home Office should require probation services to meet set targets for the submission of race and ethnic data.*

*Probation committees and CPOs should set targets in annual business plans from 2001 for the completion of 100 per cent of race and ethnic monitoring forms and implement specific measures to ensure their achievement.*

*Probation committees and CPOs should ensure monitoring systems are in place and information is collated which is used to inform and improve employment practice and work with minority ethnic offenders.*

## 15. DEMONSTRATING COMMITMENT

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- 15.1 This chapter examines the extent to which the Home Office, probation committees, CPOs and senior managers within services had taken a personal lead in recent years by promoting both the principles of race equality and the practical action to make it a reality.

### The importance of leadership

- 15.2 In the first three year plan produced by the Home Office in 1993, emphasis was placed on the importance of *"treating all people fairly, openly and with respect"*. It emphasised the importance of services' commitment to the achievement of equality of opportunity throughout all aspects of activity. As seen, in subsequent plans, the focus on anti-discriminatory practice regrettably diminished. In the 1995/98 plan the number of goals were reduced to three to reflect the priorities set by the Home Secretary and the achievement of equality of opportunity was subsumed into the overarching goal of *"improving value for money and maintaining high standards of equity"*. Although the plan included a statement urging local services to do more to translate their equal opportunities statements into action, the only requirement placed on services in the action plan was to undertake an analysis of ethnic monitoring returns and respond to a checklist issued by HMIP regarding equality of opportunity for women. No such requirement was included in the subsequent three year plans for 1996/99 or 1997/00, neither of which made any significant reference to equal opportunities. The absence of clear national direction during these years undoubtedly contributed to the lack of attention to race equality by many probation services.
- 15.3 The probation committee's role in the promotion of race equality has long been recognised and was emphasised in a review undertaken in 1994 by CPC<sup>110</sup> which stated:

*"Disadvantage is one of the consequences of discrimination and prejudice. This note of guidance is addressed to probation committees, who need to be committed to providing a service within which racism and discrimination are unacceptable. As an integral part of the criminal justice system, the service has*

<sup>110</sup> Ibid, see footnote 69.



*to be free from the damaging effects of racism and must be available and acceptable to all racial and ethnic groups.*

*Committees, with their responsibility for policy, have to be determined to eradicate any practice or procedure which causes disadvantage on the grounds of race to the staff that they employ, or to the recipients of the service that they provide."*

- 15.4 The "Leadership Challenge", initiated by the CRE in May 1997,<sup>111</sup> emphasised the importance of personal responsibility and leadership as necessary preconditions for achieving a major qualitative and quantitative advance in race relations. The purpose of the challenge was to:

*"invite people in positions of influence in all areas of society to give a personal lead in promoting the principal of race equality - and taking the practical action to make it reality."*

- 15.5 The challenge, which was accepted by the Prime Minister on its inception, committed leaders from every sector of society to use their position to place race equality issues high on the agenda and to lend their personal support to the endorsement of race equality. It stressed the importance of integrating race equality measures and strategies into organisational planning and decision-making processes. Since its launch, the Leadership Challenge had succeeded in gaining over 300 signatories, including John Hicks, the then chair of ACOP, who in 1997 committed the association to examine the management of racially motivated and racist offenders. Despite the lead given by John Hicks as chair of ACOP, the number of individual CPOs formally to sign up to the "Leadership Challenge" remained disappointingly low.<sup>112</sup>

- 15.6 The need for commitment from the top was similarly emphasised by NACRO<sup>113</sup> in their review of race issues within the criminal justice system. In its foreword, Lord Dholakia, chair of NACRO and of the Race Issues Advisory Committee, stressed the need to translate the commitment evident by the current government into organisational change:

*"And although we see commitment to change for the better at the highest levels, I wonder whether the need for organisational change is really accepted further down, where it really matters. The nature of those contacts at the local level - not only with the police, but with the CPS and the*

<sup>111</sup> Commission for Racial Equality *The Leadership Challenge* (May 1998).

<sup>112</sup> As of 31 December 1999, the CPOs of Hereford & Worcester and Leicestershire & Rutland were the only ones to have accepted the "Leadership Challenge".

<sup>113</sup> Ibid, see footnote 14.

*courts, the legal professions, and the prison and probation services - is the real test. We have not passed that test."*

### **Leadership**

- 15.7 The importance of anti-discriminatory practice had been highlighted in the 1980s through the work undertaken by the Home Office, CCPC, ACOP and NAPO and through organisations such as the CRE and the Race Issues Advisory Committee established by NACRO.<sup>114</sup> In the years that followed probation services, with their strong culture of commitment to justice and equality, had been at the vanguard of thinking and debate and many local services were amongst the first of the criminal justice agencies to develop anti-discriminatory policies and procedures. The importance of equality of opportunity had been highlighted by its inclusion in 1993 as one of the goals in the first three year plan for the service. Following its omission from the later plans, the focus on equal opportunities had varied both within and between services and many staff, at both managerial and practitioner level, seen during the course of the inspection felt that, in the years prior to the publication of the Macpherson report, the momentum had been lost. A view with which HMIP concurred.
- 15.8 The Stephen Lawrence inquiry had acted as a catalyst to some services who had begun to re-examine their performance in relation to race equality prior to the publication of the report. The concept of institutionalised racism, as defined by the report, proved helpful in enabling those services to move from a position of individual guilt and blame to recognise the prevalence of racism as an inherent part of current service structures and procedures. The publication of the Macpherson report, its acceptance by the Home Secretary and his subsequent action plan provided an additional imperative to all services to reassess their adherence to the principles of equality of opportunity and to the promotion of race equality.
- 15.9 The absence of any reference to race equality in recent Home Office objectives for the probation service for much of the 1990s was quoted by some chief officers and probation committees as a reason for not including specific targets in local strategic plans in those services who had not done so. Equal opportunity targets had, however, been incorporated into

<sup>114</sup> The Race Issues Advisory Committee had been established by the National Association for the Care and Resettlement of Offenders in 1983. Its first report, "*Black People and the Criminal Justice System*" was published in September 1986 and collated evidence of minority ethnic people's experience both as offenders and as members of the different professions working in the criminal justice system.

the annual business plan by other services such as West Midlands as part of its ongoing commitment to anti-discriminatory practice. The position had been clarified by the inclusion of race equality in the Home Office Plan for 2000/01. The absence of targets in the Home Office plan did not absolve probation committees from their legal obligations as employers to ensure that employees were not discriminated against either directly or indirectly in the field of employment, nor services from their responsibility to work effectively with minority ethnic and racially motivated offenders.

### Work undertaken by probation committees and chief probation officers

15.10 Table 30 illustrates the perception of the minority ethnic staff who responded to the questionnaire of the leadership displayed by their CPO and probation committee in the promotion of race equality and their assessment of the performance of their service in promoting race equality through its public image and as an employer.

Table 30: Perception of minority ethnic staff (Source: staff questionnaire)

		All	African/African-Caribbean	Asian	"Other"
Does the CPO take a lead in demonstrating commitment by your service to race equality?	<i>Yes definitely</i>	10%	8%	21%	7%
	<i>Yes to some extent</i>	42%	41%	46%	48%
Does the probation committee take a lead in demonstrating commitment by your service to race equality?	<i>Yes definitely</i>	8%	4%	25%	4%
	<i>Yes to some extent</i>	22%	21%	21%	20%
Do you feel that your service sufficiently emphasises a commitment to race equality through its public image?	<i>Yes definitely</i>	9%	5%	19%	15%
	<i>Yes to some extent</i>	27%	26%	38%	19%
Do you think your service takes seriously its responsibilities as an employer to race equality?	<i>Yes definitely</i>	15%	12%	32%	11%
	<i>Yes to some extent</i>	42%	43%	28%	54%

#### Commentary:

- Although little difference was observed between the performance of the CPO and the probation committee in the proportion of staff who felt that they *definitely* took a lead in demonstrating the service's commitment

to race equality, more staff felt that the CPO took a lead to *some* extent than the probation committee.

- Significantly more Asian staff than African/African-Caribbean staff considered that the probation committee *definitely* took a lead in demonstrating their service's commitment to race equality; were satisfied with the performance of their service in promoting race equality and felt that it took its responsibilities for race equality as an employer seriously.

15.11 The CPO of Inner London had stressed the significance of the Stephen Lawrence inquiry to staff in November 1998 at a conference on effective practice with minority ethnic offenders and, in the foreword of the service's quarterly newsletter, made a public commitment to addressing the issues raised by the Macpherson report in July 1999:

*"The report makes it clear that the responsibility for combating racism and race hate crimes does not just lie with the police. ... The Inner London Probation Service has, over the last decade, taken a number of important steps to develop anti-discriminatory policies and practices, to train staff accordingly, put in place race and ethnic monitoring, establish black self-development programmes and recruit black and Asian staff at every level and grade of the service. Despite this, we have not gone far enough."*

15.12 In September 1999, a multi-grade advisory group on race issues was established by the CPO, facilitated by external consultants, with a remit to focus on both staffing issues and service delivery. Some early controversy over the nomination of group members was overcome by the adoption of an agreed selection process and by the commitment of staff at all levels to address the issue of race. At the time of the fieldwork inspection, the group, known as the Race Issues Advisory Group, had already made considerable progress in setting an agenda for the service by establishing priority areas of work and in beginning an audit of organisational practice. The questionnaire circulated to minority ethnic staff revealed that seven of the 74 (9 per cent) who responded believed that the CPO definitely took a lead in promoting race equality through the service and 31 (42 per cent) considered that he had done so to some extent.

15.13 In Merseyside, the recently appointed CPO responded to the findings of the Macpherson report in June 1999 in a report to the probation committee which identified work to be undertaken in relation to both staffing and service delivery. The report endorsed the importance of leadership in addressing the issue of race equality and was circulated to all staff with a

covering memo from the CPO which concluded with the forthright comment:

*"As your Chief Probation Officer, I fully recognise that institutional racism exists and I want to make a clear and unequivocal statement that I am totally committed to tackling discrimination whenever and wherever it occurs in Merseyside Probation Service. We, as an organisation, will work towards race equality as a priority, both in terms of our own staff and the service we give to the public."*

- 15.14 It was apparent that staff in Merseyside welcomed the statement made by the CPO. Although only one member of staff believed that the CPO definitely took a lead in demonstrating the service's commitment to race equality, the seven others who responded to the questionnaire considered that he did so to some extent. The service had been taken to an employment tribunal over racial discrimination in the early 1990s and it was evident from discussion with staff at all levels that many of the underlying issues remained unresolved. These tensions were fully recognised by the CPO. The employment tribunal had been a significant event in the service's history and the lack of a collective agreement as to its outcome remained a source of unease, memorably expressed by one member of staff in the question:

*"If we cannot agree on our past, how can we decide on our future?"*

- 15.15 HMIP had commented in its report on the Q&E inspection undertaken in the West Midlands in 1996 on the concerns expressed by African, African-Caribbean and Asian staff about the way in which they were being managed, their career development and the extent to which their contribution was valued. In the report on the subsequent follow-up inspection of the service, undertaken in June 1998, HMIP found that further action was required by the service so that the channels of communication between minority ethnic staff and managers were improved and to address the *"real and very complex difficulties with regard to race issues amongst its staff."*

- 15.16 Although a significant amount of work had been attempted to address the issues facing the service, the measures taken were acknowledged by the management group to have met with mixed results. In September 1999, the Acting CPO had presented a report to the probation committee on race, outlining the service's performance to date in relation to a number of pertinent issues, including staffing and service delivery. The report was accepted and circulated to all staff in November 1999 with a covering statement signed by both the chair of the probation committee and the Acting CPO. The statement committed

the service to address the issue of institutional racism within the service in the first instance through the provision of training for all senior managers and committee members. The visit to West Midlands as part of the race equality inspection took place shortly after the pronouncement of a long-running employment tribunal on allegations of racial discrimination by the service. Many of the minority ethnic staff seen during the course of the inspection were highly critical of the service's performance with regard to race equality. However, feedback from the questionnaire indicated that seven of the 48 (15 per cent) who responded believed that the Acting CPO definitely took a lead in demonstrating commitment to race equality and 22 (46 per cent) that he did so to some extent.

15.17 In Avon, immediately following the publication of the Macpherson report, the probation committee instructed the Acting CPO to establish a multi-grade working group to consider the implications of the inquiry for the work of the service and its ethos and culture. The group included two members of the committee as well as representatives of the local community. Although the actions identified by the group needed to be more specific and measurable, the proposals were adopted. At the time, the service in Avon was facing particular pressures, following several restructures and change in CPO. The lead taken in refocusing the service's attention on race equality was of particular significance, as acknowledged by staff in feedback in the questionnaire who were alone in rating their committee's commitment to race equality higher than that of the CPO. None of the staff considered that the CPO had taken any lead in demonstrating the service's commitment to race equality but two of the seven who responded to the questionnaire believed that the probation committee had done so to some extent.

15.18 The level of response to the Stephen Lawrence inquiry in South Glamorgan, South East London and Nottinghamshire was surprisingly limited, given the attention paid to issues of race by those services in the past. All three services had instigated different initiatives in the past which included the development of policy and provision of training. Neither the CPO nor the probation committee had taken the opportunity provided by the publication of the Macpherson report to issue a clear statement of expectation to staff about the service's commitment to race equality. In Nottinghamshire, the service's commitment to the promotion of race equality had been raised by an employment tribunal immediately prior to the inspection. Engagements with staff, particularly practitioners, during the course of the inspection indicated that although some were able to describe their service's clear commitment to race equality, others were uncertain what was required of them. These views

were confirmed by feedback from minority ethnic staff in the questionnaire, in that only two members of staff from the 24 who responded from all three services considered that their CPO definitely took a lead in promoting race equality and just a further seven considered that they did so to a certain extent.

- 15.19 It was of concern that neither the CPO nor the probation committee in those services visited where the local population of minority ethnic people was known to be small (Cornwall, Cheshire and West Sussex) took a more prominent role in promoting race equality. In Cornwall, the issue of race equality was openly acknowledged to have a low priority by the CPO against the other pressures facing the service. In West Sussex, a significant amount of work had been undertaken to address anti-discriminatory practice in the mid 1990s which included an internal inspection on equal opportunities in recruitment, selection and retention of staff in 1996 which informed the development of the subsequent policy. This policy appeared to have had little impact. Cheshire was the only one of the three services to have formally noted the significance of the Macpherson report to the probation service by issuing a memo to staff committing the service to learn from the findings of the report. Apart from the memo, however, there was no evidence of further attention being given to how any actions arising from the report for the service were to be implemented and none of the staff seen during the course of the inspection could recall either the CPO or probation committee issuing a clear statement of expectation about the service's commitment to race equality.
- 15.20 The promotion of race equality by those services located in rural areas, with a low percentage of minority ethnic people amongst the local population, was acknowledged by HMIP to require a specific response. Particular difficulties were posed by the supervision of the small number of minority ethnic offenders by these services and attention was required to ensure that their offending behaviour was addressed effectively and their criminogenic needs addressed. Service managers needed to recognise the demands placed on staff working to address the racist attitudes and behaviour of offenders drawn from communities with little direct experience of different cultures in order that their support needs could be met. The importance of attracting and retaining minority ethnic staff to work in these services was paramount, as was the need to develop a common understanding about racism and racist behaviour.
- 15.21 The role of the CPO and probation committee in articulating the specific requirements placed upon the service by the promotion of race equality was crucial. Even where the CPO and/or the probation committee had given a clear commitment to achieving

race equality, all still faced the challenge, to varying degrees, of translating that commitment, by means of a strategic plan containing time-limited, measurable objectives, into operational reality. Where the Macpherson report had raised expectations amongst minority ethnic staff of significant change in the culture, management and performance of the service, failure to achieve significant improvements would result in the continuing disillusionment expressed by many minority ethnic staff.

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**Staff views**

- *"The service needs to work towards turning policies into action."*
  - *"Black and Asian employees in senior management positions."*
  - *"Listen to black officers. Do not deny our experiences of racism. Act appropriately by having the will to implement policies effectively. Change."*
  - *"I would like to see the service promote pro-social modelling and make it an expectation and requirement of all its staff."*
  - *"More regular and open discussion about racial issues within teams."*
  - *"Show a more positive and enabling attitude. Be less defensive when challenged. Value difference. Carry through in practice what is written in policy."*
  - *"Monitor/collate statistics of ethnic minority offenders. Promote the principle of 'diversity' in order to reduce diversity/conflict. Pay more attention to and resource services to black offenders."*
  - *"Discipline managers who are racist. Don't defend them."*
- 

**Summary**

15.22 In the 1980s and early 1990s, many probation services, with their strong culture of commitment to justice and equality, had been at the vanguard of thinking and debate, and were amongst the first of the criminal justice agencies to develop anti-discriminatory practices and procedures. Many staff, at all levels and in all services, felt that the attention given to the promotion of equal opportunities had diminished in recent years. This view which was shared by HMIP. The publication of the Macpherson report had therefore acted as a catalyst to action to many services.

15.23 The absence of clear national direction had undoubtedly contributed to the lack of attention to race equality by many probation services. The level of attention given to the promotion of race equality by the CPO and probation committee varied considerably between services. The majority of services who had acted on the recommendations of the Macpherson report and the Home Secretary's Action Plan were still in an initial phase of identifying areas of work to be addressed. The performance of the Race Issues Advisory Group in Inner London demonstrated how progress could be made relatively quickly given the commitment of all concerned. The example of Avon showed the importance of the probation committee's role in ensuring that attention was given to the promotion of race



equality at a strategic level despite other pressures facing the service.

- 15.24 It was a matter of concern that none of the services visited had translated the statements of intent, where made, into a strategic plan containing time-limited, measurable objectives.
- 15.25 It was both surprising and disappointing to note the absence of any clear lead from either the CPO or probation committee in some services visited, particularly those with few minority ethnic staff. HMIP considers that all services have a responsibility to promote race equality. CPOs and probation committees have a crucial role in translating this responsibility into operational reality by identifying the approach to be adopted by the service relevant to the local situation in order to ensure the effective supervision of all offenders.
- 15.26 It was evident from discussions with minority ethnic staff in all services and from feedback from the questionnaire that the Macpherson report and the subsequent response by the Home Secretary had raised expectations of significant change in the culture, management and performance of the service.

### **Recommendation**

- 15.27 It is therefore recommended that:

*The Home Office, probation committees and CPOs should provide clear direction and guidance to probation services in order to inform the development of equal opportunities and anti-racism policies.*

## 16. "A NEW DAWN"?

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- 16.1 A report, commissioned by ACOP<sup>115</sup> to assess the work undertaken by services in the 1980s to promote race equality, summed up the achievements of the service during the decade in the following comment:

*"There has been a considerable development of race relations policy within the probation service during the last few years. Among other factors, the pace of developments has tended to produce a pattern of discrete innovations rather than a corporate approach to race relations policy. Some probation areas needed to further develop the corporate approach to the race relations policy they have adopted. A greater number need to consolidate, refine and extend the work they have undertaken. And a smaller but not insignificant number of areas need to move beyond the production of a race relations policy statement to plan and implement a range of provisions. Race relations is of relevance to all probation areas. The development of a good race relations policy and practice is in many respects the development of good probation policy and practice itself."*

- 16.2 Regrettably, these comments, written over 10 years ago, could apply to the performance of probation services today. Despite the good intentions of the late 1980s and early 1990s the evidence of this report is that very little has in fact changed, and that equal opportunities remains, to borrow a phrase from NACRO,<sup>116</sup> *"the property of enthusiasts"* rather than *"an accepted part of professionalism"*.

- 16.3 There is undoubtedly, following the Stephen Lawrence inquiry, a renewed commitment for change. This cannot be another "false dawn". If history is not to repeat itself, and services are to contribute to the aim set out by government in which *"where every member of every part of society is able to fulfil their potential, where racism is unacceptable and counteracted, where everyone is treated according to their needs and rights, where everyone recognises their responsibilities and where racial diversity is celebrated"*,<sup>117</sup> certain steps need to be taken. Work has already begun at a national and local level to achieve the Home Secretary's targets. Further action by probation services should include:

<sup>115</sup> Ibid, see footnote 11.

<sup>116</sup> National Association for the Care and Resettlement of Offenders *"Race and Criminal Justice: A Way Forward"* (1989).

<sup>117</sup> Ibid, see footnote 29.

- clear direction and leadership at a national and local level
- adoption of the definitions of racist behaviour and institutionalised racism given in the Macpherson report
- effective monitoring of race and ethnic origin
- equal opportunities and anti-racism policies supported by action plans with specific measurable objectives and reviewed annually
- positive action to address imbalances in the staffing of services at all levels
- consistent approach to the recruitment, selection and retention of all staff
- appropriate mandatory training for probation committee members and all staff to promote race equality
- policy and practice guidance for work with offenders that takes account of the particular circumstances of minority ethnic offenders and racially motivated offenders
- the provision of appropriate resources to promote equality of service delivery
- the integration of "What Works" principles into work with minority ethnic offenders and racially motivated offenders.

## Appendix 1

### Inspection schedule standards and criteria

(a) **ORGANISATIONAL ISSUES  
DEMONSTRATING COMMITMENT**

**Standard:**

The probation committee, CPO and senior managers within the service take a personal lead in promoting both the principle of racial equality and the practical action to make it a reality.

**Criteria:**

- The committee and chief officers within the service publicly demonstrate their support by endorsing events which promote the principle of racial equality.
- The public image of the service emphasises its commitment to the principles of racial equality.
- Racial equality measures are an integral part of the service's strategic planning process.
- Resources are allocated as appropriate to implement equal opportunity procedures.
- The implementation of racial equality measures is regularly monitored against agreed criteria and progress reported to the probation committee as appropriate.

*Ref: CRE - Code of Practice  
CRE - The Leadership Challenge*

(b) **THE EQUAL OPPORTUNITIES POLICY**

**Standard:**

An equal opportunities policy is in place which aims to ensure that:

- (a) no job applicant or employee receives less favourable treatment than another on racial grounds;
- (b) no applicant or employee is placed at a disadvantage by requirements or conditions which have a disproportionately adverse effect on his

or her racial group and which cannot be shown to be justifiable other than on racial grounds;

- (c) where appropriate, and where permissible under the Race Relations Act, employees of under-represented racial groups are given training and encouragement to achieve equal opportunities within the organisation;
- (d) the policy is communicated to all members of staff and its implementation is monitored and reviewed regularly by the probation committee and chief officers.

**Criteria:**

- The policy contains a short, clear statement of the service's commitment, within the framework of the law, to achieving and maintaining a workforce which represents the population of the local area.
- The policy has the visible support of the probation committee and senior management.
- The policy sets out clear objectives which enables priorities for action to be identified and an effective programme to achieve them to be identified.
- Implementation of the policy is monitored regularly against agreed *criteria*.

*Ref: CRE - Code of Practice*

*Race Relations Act 1976 Sections 37 & 38*

**(c) RECRUITMENT OF STAFF**

**Standard:**

The criteria for selection for any post must be objective, non-discriminatory and directly related to the needs of the job.

The service adopts positive action, as defined by Sections 37 and 38 of the Race Relations Act 1976, to encourage members of minority ethnic groups to apply for positions where they have previously been under-represented and to help them qualify, on merit, for appointment and promotion.

**Criteria:**

- An analysis is undertaken of the composition of the staffing establishment according to racial and ethnic background.

- Applicants for jobs are monitored according to their racial and ethnic background.
- Selection procedures and criteria are examined regularly and changed if they are found to be directly or indirectly discriminatory.
- Each post has an up-to-date job description and person specification.
- Job vacancies are advertised in such a way as to promote applications from individuals from racial and minority ethnic groups.
- Job vacancies are clearly communicated to all eligible employees.
- The selection procedure for vacancies is communicated clearly to prospective applicants and consistently applied.
- Individuals responsible for shortlisting, interviewing and the selection of staff are given appropriate training.
- The selection methods used are fair, objective and relate directly to the job description and person specification.

*Ref: Race Relations Act 1976  
 CRE - Positive Action and Equal Opportunity in Employment  
 ACAS - Recruitment and Induction*

**(d) TRAINING, DEVELOPMENT AND THE RETENTION OF STAFF**

***Standard:***

The service:

- acknowledges the difference between individuals in a positive way and promotes services which builds on their strengths
- aims to achieve equality of opportunity throughout ... all its activities through access to training and progression.

***Criteria:***

- The service helps individuals to identify their learning needs and to match these with suitable training and development opportunities.
- Training and development opportunities are provided to members of minority ethnic groups to enable them to apply for positions where they are under-represented.

- Training is provided for all staff to promote the development of equal opportunities throughout the service.
- Appraisal criteria are clearly established for all grades of staff.
- Staff are appraised regularly in accordance with policy guidelines.
- Levels of absence and staff turnover are monitored with action taken as appropriate.

*Ref: Probation Service Competences  
Race Relations Act 1996 Sections 37 & 38  
ACAS - Absence and Labour Turnover*

**(e) MONITORING AND ANALYSIS**

***Standard:***

The service provides complete accurate and timely information to the Home Office on the workload and staffing establishment according to race and ethnic origin.

Race and ethnic monitoring is routinely undertaken on the take-up and outcomes of all service delivery and used to inform both practice and policy development.

***Criteria:***

- A minimum response rate of 95 per cent is achieved for the submission to the Home Office of race and ethnic monitoring forms relating to probation workload in accordance with Probation Circular 78/1994.
- A 100 per cent response rate is achieved for the submission to the Home Office of race and ethnic monitoring forms relating to staff.
- Equal opportunities policies and plans are regularly monitored and evaluated against the objectives set.
- Racial equality objectives are built into the standard evaluation processes of all practice and used to assess the effectiveness of work with offenders from minority ethnic groups.

*Ref: Probation Circular 78/1994: Race and Ethnic Monitoring of Probation Workload  
CRE - Racial Equality Means Quality/A Standard for Racial Equality  
CRE - Code of Practice*

**(f) DISCIPLINE AND GRIEVANCE**

**Standard:**

The service has established fair and effective procedures in which all staff have confidence for the speedy resolution of grievance and disciplinary matters.

**Criteria:**

- Staff at all levels know what standards of conduct are expected of them.
- Under the Employment Rights Act 1996, staff at all levels are aware of the disciplinary rules and procedures and know the person to whom they should apply if they are dissatisfied with any disciplinary decision or wish to seek redress of any grievance or complaint.
- The disciplinary rules and procedures are accepted as reasonable by both staff and management.
- The service monitors the operation of the disciplinary and grievance procedures and communicates the outcome of any review to staff at all levels.
- Any records containing personal details of staff involved in breaches of the disciplinary codes or grievance action are carefully safeguarded and kept confidential.

*Ref: ACAS Code of Practice No. 1 - Disciplinary Practice and Procedures in Employment  
CRE - Code of Practice  
CRE - Racial Harassment at Work  
CRE - Racial Equality means Quality*

**(g) COMPLAINTS**

**Standard:**

The service has established an effective complaints procedure which is clearly communicated to members of the public and other organisations, easily accessible and routinely monitored.

**Criteria:**

- The procedures are set out clearly, step-by-step using plain language, so that the person wishing to make a complaint knows what to do and whom to approach.
- The procedures are available in other languages according to the composition of the local area.



- Time limits are set for each stage of the process and communicated to the complainant.
- The process is transparent and open to scrutiny.
- The process is monitored and regularly reviewed.

*Ref: Citizen's Charter*

**(h) LINKS WITH THE WIDER COMMUNITY**

***Standard:***

The service sees minority ethnic groups within the local community as strategic partners in work with offenders and establishes links accordingly.

***Criteria:***

- The service establishes formal mechanisms to consult with minority ethnic groups.
- The service takes account of the needs of minority ethnic groups within the community in the development of policy and service delivery.
- The service enhances its work with offenders through the establishment of partnerships with minority ethnic groups.
- The service translates appropriate information into community languages.
- The service provides information to minority ethnic groups on the role of the probation service in working with offenders.

*Ref: CRE - Racial Equality Means Quality  
Department for Education and Employment - Equal Opportunities/Ten point Plan for Employers*

**(i) PROBATION ORDERS**

***Standard:***

The supervision of offenders from minority ethnic groups subject to probation orders is undertaken in accordance with both national standards and the principles of effectiveness and is delivered fairly, consistently and without improper discrimination.

***Criteria:***

- Policy and practice guidelines have been drawn up for the supervision of offenders subject to probation orders which specifically address the needs of offenders from minority ethnic groups.

- Systems are in place for monitoring compliance with national standards according to race and ethnic origin and timely, accurate and complete results are made available to the probation committee, managers and staff.
- A plan has been drawn up for implementing evidence-based, effective supervision which addresses the requirements of offenders from minority ethnic groups.
- A senior member of staff has been appointed to champion and take forward the process of implementing effective supervision in accordance with the service plan.
- Provision is made for offenders from minority ethnic groups appropriate to their needs.
- Specific attention has been given to the needs of offenders from minority ethnic groups in establishing structured group work programmes.
- The service training programme addresses the needs of staff working with minority ethnic groups.
- The service supports staff from minority ethnic groups in work with offenders from minority ethnic groups.
- The provision of services to offenders is monitored according to equality of access and successful outcome and remedial action taken where appropriate.
- The service monitors and evaluates the effectiveness of the supervision of offenders from minority ethnic backgrounds subject to probation orders and seeks continuously to improve its performance.

*Ref: National Standards 1995  
HMIP Performance Inspection Programme -  
Inspecting Performance in the Probation Service*

**(j) CS ORDERS**

***Standard:***

Arrangements for the management of CS ensures that the work performed by offenders from minority ethnic groups is supervised by the most cost-effective methods consistent with public safety, the national standard, anti-discriminatory practice, the satisfaction of sentencers and beneficiaries and enhances the prospects for successful community reintegration.

**Criteria:**

- Policy and practice guidelines have been drawn up for the management of offenders subject to CS orders which specifically addresses the requirements of offenders from minority ethnic groups.
- Systems are in place for monitoring compliance with the national standard according to race and ethnic origin and timely, complete and accurate results are made available to the probation committee, staff and managers.
- The service have made particular efforts to identify suitable placements for offenders from different minority ethnic groups.
- CS schemes are reviewed regularly to ensure that sufficient group and individual placements are available appropriate to the requirements of offenders from different minority ethnic groups.
- The service ensures that adequate attention is paid to the needs of offenders from different minority ethnic groups when considering their work placement whilst subject to CS.
- Beneficiaries are provided with written information detailing their responsibilities and those of the service and offenders which includes a section on anti-discriminatory practice.
- The service ensures that the supervision of work placements is free from improper discrimination.

*Ref: National Standards 1995  
HMIP Performance Inspection Programme -  
Inspecting Performance in the Probation Service  
HMIP Community Service - Report of a Thematic  
Inspection 1994*

**(k) WORK WITH RACIALLY MOTIVATED OFFENDERS**

**Standard:**

Probation services implement the requirements of the Crime and Disorder Acts 1998 by developing effective strategies to work with offenders convicted of racially motivated crimes which challenge their behaviour and attitudes.

**Criteria:**

- The supervision of racially motivated offenders is undertaken in accordance with national

standards and the principles of effective practice.

- Work with racially motivated offenders is recognised as part of the probation service's responsibility for public protection and accordingly incorporated into procedures and guidelines addressing risk and dangerousness.
- Agreements are established with police over the exchange of information relating to racially motivated offenders.
- Inter-agency protocols established with both the prisons and the courts address the wording of requirements and the enforcement of orders and licences relating to racially motivated offenders.
- Training packages are developed and implemented for staff working with racially motivated offenders.
- Steps are taken to protect all staff and service users who may have contact with racially motivated offenders from violence or the fear of violence.
- Data collection systems are extended to include racially motivated offending.

*Ref: Midlands Probation Training Consortium in collaboration with Midlands Region ACOP - From Murmur to Murder - Working with racially Motivated and Racist Offenders  
Home Office Research Study 171 - Challenging Offenders Attitudes and Behaviour*

**(1) PSRs**

**Standard:**

The PSR should be prepared in accordance with national standards.

The PSR should be impartial, balanced and factually accurate.

**Criteria:**

- A policy covering the preparation of PSRs is in place which recognises the requirements and needs of offenders from minority ethnic groups.
- Training in report writing specifically addresses offenders from minority ethnic groups.

- Guidance is given to report writers, as appropriate, on the preparation of reports on offenders from minority ethnic groups.
- The service monitors its performance with regard to reports written on offenders from minority ethnic groups and uses this information to inform practice.

*Ref: National Standards 1995*

## Appendix 2

### Definition of questionnaire sent to minority ethnic staff and background information

#### Definition of sample

Each of the 10 services visited was asked to provide HMIP with the names and location of all their minority ethnic employees, of whatever grade. A confidential questionnaire was then sent via the service to each of the members of staff named, seeking their views on relevant issues covered by the inspection.

#### Background information

Questionnaires were sent to 643 members of staff, of whom 185 replied (29 per cent).

The proportion of minority ethnic staff within each service to respond to the questionnaire were:

- 64 per cent in Avon
- 24 per cent in Inner London
- 38 per cent in Merseyside
- 44 per cent in Nottinghamshire
- 17 per cent in South East London
- 29 per cent in West Midlands
- an aggregate of 71 per cent in Cheshire, Cornwall, South Glamorgan and West Sussex.

24 per cent of the respondents were male and 76 per cent were female.

60 per cent of the respondents described their ethnic group as African/African-Caribbean, 15 per cent as Asian and 16 per cent described themselves as "other". 10 per cent of the respondents did not indicate their ethnic group.

7 per cent of the respondents had been employed by the service for less than one year, 9 per cent for one to two years, 10 per cent for three to five years and 74 per cent for more than five years.

## Appendix 3

### Definition of samples for file reading

Services were asked to produce for the inspection:

#### **PSRs**

- The last 20 PSRs produced by the service for any court on white offenders prior to 31 July 1999.
- The last 30 PSRs produced by the service for any court on minority ethnic offenders prior to 31 July 1999 but no earlier than 30 December 1997.

Addendum reports and nil reports were to be excluded.

#### **Probation orders**

- The full case file\* on the most recent 20 probation orders with or without requirements made on white offenders terminating (for whatever reason) prior to 31 July 1999. Any order which commenced before 30 June 1996 was to be excluded.
- The full case file\* on the most recent 30 probation orders (with or without requirements) made on minority ethnic offenders terminating (for whatever reason) prior to 31 July 1999. Any order which commenced before 30 June 1996 was to be excluded.

Only terminated cases were included in the file reading inspection. Any cases where there were continuing concurrent orders were excluded from the sample. In addition, services were also asked to exclude any cases transferred in from another service.

#### **CS orders**

- The full case file\* on the most recent 20 CS orders made on white offenders terminating (for whatever reason) prior to 31 July 1999. Any order which commenced before 30 June 1996 was to be excluded.
- The full case file\* on the most recent 30 CS orders made on minority ethnic offenders terminating (for whatever reason) back from 31 July 1999. Any order which commenced before 30 June 1996 was to be excluded.

Only terminated cases were included in the file reading inspection. Any cases where there were continuing concurrent orders were excluded from the sample. In addition, services were also asked to exclude any cases transferred in from other services.

\* ***Definition of full case file:***

- basic factual information ("Front sheet" - as old "part A")
- PSR(s) where relevant
- supervision plan and any reviews
- any separate risk assessments (including relevant CS assessment), and reviews
- contact logs ("part C"), including records of attendance at programmes or with other agencies which the offender attended under the direction of the supervising officer
- any more detailed records of interviews
- (if not covered by the above) for CS, record of hours worked on each occasion, and of cumulative count of hours worked
- any correspondence.



## Appendix 4

### Background characteristics of cases sampled in file reading

#### PSRs

Services were asked to produce the last 20 PSRs written on white offenders and the last 30 PSRs written on minority ethnic offenders prior to 31 July 1999 (see Appendix 2).

#### *Background information*

484 PSRs were read.

Of these: 181 (37 per cent) had been prepared on white offenders, 177 (37 per cent) on African/African-Caribbean offenders, 47 (10 per cent) Asian, and 65 (13 per cent) on offenders recorded as "other"; in one case PREM information was refused; and in the other 13 cases the reader had not answered the question.

5 per cent (25) of the PSRs had been prepared for the youth court, 69 per cent (335) for the magistrates' court and 24 per cent (116) for the Crown Court.

88 per cent of PSRs had been prepared on males: white 84 per cent, African/African-Caribbean 89 per cent, Asian 91 per cent, "other" 91 per cent.

The offender had (clearly) cooperated with the preparation of the report in 96 per cent of cases overall: white 97 per cent, African/African-Caribbean 96 per cent, Asian 91 per cent, "other" 97 per cent.

It was clear that the offender had been remanded either in custody or the care of the local authority for the purposes of the PSR preparation in 22 per cent of cases overall: white 16 per cent, African/African-Caribbean 28 per cent, Asian 28 per cent, "other" 22 per cent.

Explicit reference was made to the use of an interpreter in 1 per cent (five cases) overall: white 1 per cent (two cases), African/African-Caribbean 0 per cent, Asian 4 per cent (two cases), "other" 0 per cent; in the remaining one case the reader had not recorded ethnic group.

The PSR made explicit reference to CPS or other prosecution papers in 90 per cent of cases overall: white 93 per cent, African/African-Caribbean 88 per cent, Asian 91 per cent, "other" 88 per cent.

### **Probation orders**

Services were asked to produce the full case file on the 20 most recent probation orders on white offenders and the 30 most recent on minority ethnic offenders terminating prior to 31 July 1999 (see Appendix 2).

#### ***Background information***

386 offender case files were read. Of these: 183 (47 per cent) were white, 142 (37 per cent) African/African-Caribbean, 29 (8 per cent) Asian, 29 (8 per cent) "other", and in three cases (1 per cent) information on race/ethnic origin was missing.

68 per cent of the orders considered had no additional requirements of which: white 68 per cent, African/African-Caribbean 70 per cent, Asian 68 per cent, "other" 62 per cent.

In 67 per cent of the cases, the duration of the orders was one year or less: white 62 per cent, African/African-Caribbean 74 per cent, Asian 66 per cent, "other" 62 per cent.

25 per cent of the orders had been made on offences considered as "more serious" (for definition, see paragraph 1.20). Of these: white 25 per cent, African/African-Caribbean 24 per cent, Asian 21 per cent, "other" 32 per cent.

### **CS orders**

Services were asked to produce the full case file on the 20 most recent CS orders on white offenders and the 30 most recent on minority ethnic offenders terminating prior to 31 July 1999 (see Appendix 2).

#### ***Background information***

401 offender case files were read. Of these: 194 (48 per cent) were white, 141 (35 per cent) African/African-Caribbean, 40 (10 per cent) Asian, 25 (6 per cent) "other"; and in one case information on race/ethnic origin was missing.

55 per cent of the orders were for 100 hours or less. Of these: white 56 per cent, African/African-Caribbean 55 per cent, Asian 50 per cent, "other" 61 per cent.

21 per cent of the orders overall had been made for offences considered as "more serious" (for definition, see paragraph 1.20). Of these: white 23 per cent, African/African-Caribbean 18 per cent, Asian 22 per cent, "other" 12 per cent.



## Glossary of abbreviations

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ABPO	Association of Black Probation Officers
ACAS	Advisory, Conciliation and Arbitration Service
ACJLC	Area Criminal Justice Liaison Committee
ACOP	Association of Chief Officers of Probation
ACPO	Assistant chief probation officer
APT&C Clerical	Administrative, Professional, Technical and Clerical
BSWAPO	Black Social Workers and Probation Officers
CCPC	Central Council of Probation Committees
CJCC	Criminal Justice Consultative Council
CPC	Central Probation Council
CPO	Chief probation officer
CPS	Crown Prosecution Service
CRE	Commission for Race Equality
CS	Community service
CV	<i>Curriculum Vitae</i>
DCPO	Deputy chief probation officer
HMCIP	HM Chief Inspector of Probation
HMI	HM inspector
HMIP	HM Inspectorate of Probation
KPI	Key performance indicator
NAAPS	National Association of Asian Probation Staff
NACRO	National Association for the Care and Resettlement of Offenders
NAPO	National Association of Probation Officers
NNC	National Negotiating Council
OASys	Offender Assessment System
PO	Probation officer
PSO	Probation services officer
PSR	Pre-sentence report
Q&E	Quality and effectiveness
REC	Race Equality Council

SPO Senior probation officer