

Dealing with Racist Representations

RTPI Practice Guidance Note for officers of planning authorities written by the RTPI Race Relations Panel

1. Introduction

This practice note was published in 1996. The Race Equality Duty was introduced in the UK in 2005. It applies to all public authorities requiring them to eliminate unlawful racial discrimination, promote equality of opportunity between persons of different racial groups and promote good relations between persons of different racial groups. Public bodies are expected to proactively take account of racial equality in the ways they serve the public, employ people or more generally carry out their work, for example through establishing and operating regulatory frameworks, making planning decisions etc. This has significant implications for all planners, therefore the RTPI will publish new advice taking account of the Duty in the near future.

A section containing hyperlinks to [sources of further information](#) and [key publications](#) is available at the end of this document.

Racist representations may not be as serious a problem as racial harassment, but it would be naive to pretend that they do not exist. Even if a local planning authority receives only a handful of such representations each year, their impact on community relations can be very damaging. To prevent inaction being interpreted as acceptance, planning authorities need to take positive measures.

The procedures suggested in this guidance note relate primarily to the development control process, but can be adapted for dealing with racist representations on other matters: development plans and supplementary planning guidance; consultations on environmental or traffic schemes; complaints about ethnic minority members of staff; ethnic monitoring of applicants; etc.

This guidance note, whilst targeted mainly at RTPI members employed by local planning authorities, may also be useful to members employed in other agencies concerned with the planning process (e.g. the Planning Inspectorate and the Local Government Ombudsman).

2. Adopting a policy

The adoption of a policy for dealing with racist representations will provide a framework within which correspondence and other communications of a racist character can be dealt with quickly and effectively. It will also reinforce the need for members of the RTPI to comply with the equal opportunity provisions of their Code of Professional Conduct and help them to do so. The Code says:

“In all their professional activities members shall not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote “equality of opportunity.”

The Race Relations Act 1976 and the corporate equal opportunities policies of most planning authorities include anti-racist provisions similar to those in the RTPI Code, and these of course are binding on all staff. 69 % of local planning authorities are committed to equal opportunities, at least on paper (Ethnic Minorities and the Planning System, RTPI 1993). To take this commitment a step further, they should seriously consider the adoption of policies for dealing with racist representations.

Adopting, implementing and monitoring such a policy will demonstrate three things:

- It will show ethnic minority communities that the issue is being taken seriously by the planning authority. Even today many members of ethnic minorities genuinely believe that planning officers collude with racist objectors by recommending refusal of valid planning applications to committee, or refusing permission to such applications under delegated powers;
- It will emphasise that only matters related to planning are material considerations when deciding upon planning applications and enforcement action;
- It will show that the authority is taking positive steps to promote better community relations, that racist representations are not welcome and that persistent offenders will be dealt with accordingly.

3. The legal position

Not only is it fair and morally responsible to treat racist representations seriously: it is also a legal requirement.

The Local Government (Access to Information) Act 1985 requires any material which is defamatory or likely to incite racial hatred or contempt, and information the disclosure of which is prohibited by law, to be marked 'confidential' and not disclosed to the public. Most local authority Standing Orders and Codes of Practice on Access to Information include provisions specifically designed to secure compliance with this requirement.

Section 31 of the Race Relations Act 1976 makes it unlawful for anyone to induce or attempt to induce another person to discriminate on the grounds of race.

Section 33 of the Race Relations Act makes it unlawful for an authority or officer to aid and abet discrimination by failing to challenge a discriminatory pressure.

Section 19 of the Public Order Act 1986 prohibits the publication or distribution of any written material which is threatening, abusive or insulting and likely to stir up hatred against any racial group.

Thus anyone who, either in writing or verbally, objects on racist grounds to a planning or building regulations application or proposal is potentially contravening one of these Acts, by applying pressure to discriminate.

4. Definition

Determining precisely what constitutes a racist representation, objection or comment is difficult, and determining its lawfulness can be even more problematic. There is as yet no clear definition or case law which might help to clarify the situation. Often, what may be offensive to a black person is not necessarily offensive to a white person, but this does not mean that it is either acceptable or non-racist. In general terms, a racist representation is one which includes words, phrases or comments which are likely:

- to be offensive to a particular racial or ethnic group
- to be racially abusive, insulting or threatening
- to apply pressure to discriminate on racial grounds
- to stir up racial hatred or contempt

The context in which such words, phrases or comments are used must be considered carefully, in order to ascertain their true meaning and effect.

It is not necessary for a planning authority to define in strict legal terms precisely what constitutes a racist representation. Its role is not to act as prosecutor, but gradually to reduce and eventually eradicate racist objections. If certain people persist in making representations which the authority regards as racist, the matter should be referred to the Commission for Racial Equality (CRE) or the police. (Note, however, that the CRE has a role only in instances where there is a pressure to discriminate, or where actual discrimination on racial grounds has taken place or is likely to take place. Representations which are deemed to be offensive, abusive, insulting, threatening or inciting racial hatred are matters for the police; the CRE has no specific role or power to act in such cases.) Annex A provides some examples of objections which could reasonably be considered racist.

5. Recommended procedure

All planning authority staff have a duty to be vigilant in identifying racist representations and ensuring that the correct procedure is consistently followed. However, each authority needs to designate one senior officer who will be ultimately responsible for responding to such representations. He or she should be experienced in handling sensitive issues and dealing regularly with members of the public and, most important of all, fully committed to the pursuit of equal opportunity.

No staff should assume that letters have already been screened for racism, even where such procedures exist, though responsibility for identifying potentially racist material should lie with

the appropriate case officer. Any letter which seems to contain racist material should always be referred to the designated officer for action.

The designated officer should confirm (if necessary after consultation with the authority's race or equal opportunities unit, or with the CRE) whether or not the letter is racist.

If the letter is racist, and contains no material planning consideration, the officer should return the letter to the writer explaining that it is unlawful and cannot be considered. Its receipt should not be identified in any planning application committee report as it is not material.

If the letter is racist, but also contains material planning considerations, the officer should return the letter to the writer because of its unlawful racist content, explaining that if the writer wishes the valid material planning considerations to be put before committee they must write again dealing only with these valid planning matters. (However, if the writer fails to do this, and if the original letter raises a material planning consideration which is not already covered in the officer's report, the officer should raise it at the meeting and have it minuted to ensure that the objector cannot challenge the committee's decision.)

If the writer makes further racist representations the matter should be referred to the local office of the CRE or the police, as appropriate (see Section 4).

These procedures do not preclude the council from monitoring the incidence of racist representations. However, any photocopies of racist material kept for monitoring purposes should be marked confidential and placed on a separate file.

It would help to expedite matters if the local Race Equality Council or other local race equality body (e.g. the appropriate council unit) were fully involved from the staff in the development and implementation of the authority's policies on racism.

6. Ambiguous and verbal representations

Racist representations will often not be as straightforward as some of the examples illustrated in Annex A.

Ambiguous

For example, there may be organised opposition to an Indian take-away, with a petition or a stand and letter from a large-number of objectors, but no opposition to a British fish and chip shop in the same street. But any racist element in such opposition may not be reflected in the wording of the petition statement or standard letter, or may be insufficiently explicit to be defined as racial discrimination under the 1976 Act.

In such cases officers should report to committee that representations have been received which, whilst not overtly racial, have been received in circumstances which suggest that they may be racially motivated. The reasons for this suspicion should be explained and the representations made available for members to form their own view.

'Low-level' racist representations of this kind should be monitored. When particular people repeatedly lend their names to such representations they should be warned and, if they persist, reported to the CRE.

Verbal

A typical instance of racial representations made verbally might occur, for example, during a site visit for an application relating to the building of a new Mosque. During the visit a local resident approaches the planning officer and says: 'They come over here and expect to get everything on a plate, they should live by our rules, when in Rome ...'

Whilst this resident may appear to be applying pressure to discriminate, what is meant by 'they' or 'living by our rules' is not necessarily clear. Even if the intent is clear, there may be no conclusive proof of what was said, and any subsequent action may rest on the officer's word against that of the resident.

If the remarks are sufficiently blatant the officer can simply tell the resident that pressure to discriminate on racial grounds is not acceptable and will not influence the outcome of the planning application.

If the officer is less certain of the speaker's intent, the face to face meeting allows the officer to ask the person exactly what they mean. Sometimes this in itself will cause the person to back down.

In other instances the person will make it very apparent that at least part of their objection is indeed racially motivated. Without jeopardising the physical safety* of the officer involved, the speaker should be left in no doubt that any racist elements in their views will be entirely disregarded when the merits of the proposal or application are assessed and a decision taken.

Members must be careful not to slander members of the public by attributing racially-motivated views to them when such views have not been openly expressed, whatever reservations they may privately have.

Codes of conduct

Such instances are more difficult to deal with than those covered by Annex A, and more difficult to prove. Each local planning authority's policy for dealing with racist representation should cover these more difficult cases. The policy should include a code of conduct which takes account of local circumstances and provides staff with basic guidance on how to respond in different situations.

Such a policy would also help to protect staff from changes in political climate and the emotional responses which sometimes cloud judgement when dealing with issues of race and racism.

* see [RTPI Good Practice Note 3: Personal Safety at Work](#)

7. Training

Dealing with racist representations, particularly when face to face with someone making racist remarks, requires confidence and self-assertion. Even a racially-aware officer, with a good understanding of the issues, may decide that it is easier simply to let the matter pass and to avoid comment. But such inaction would undermine the authority's anti-racist policy. Training

for officers, designed specifically to enable them to deal with racist representations, is crucial. No policy on dealing with racist representations can work unless staff know what it is and understand why it has been adopted.

In particular, staff should understand how the authority's organisational strategies and procedures, how the actions of individuals within the authority, and how the attitudes of some members of the public, can create pressures for or even cause actual racial discrimination. It is impossible to deal effectively with racist representations without an understanding of the ways in which racial discrimination operates.

The importance of anti-racist training (focusing on corporate issues) and race awareness training (focusing on personal issues) therefore needs to be recognised. They should not be seen as simply another management fad. Training should aim to give each individual the understanding and skills which will enable the authority as a whole to respond in an effective and consistent manner to racism.

8. Sources of further information

For more information please visit:

Commission for Racial Equality www.cre.gov.uk

Race, Cohesion and Faiths Directorate (DCLG)

www.communities.gov.uk/index.asp?id=1500185

Commission for Equality and Human Rights

www.cehr.org.uk/ (brings together the Commission for Racial Equality, Equal Opportunities Commission and the Disability Rights Commission from October 2007)

Key publications

Translation of Written Material into Ethnic Minority Languages: A Guidance Note (RTPI 1993)

RTPI Code of Professional Conduct www.rtpi.org.uk/about-the-rtpi/codecond.pdf

Race Relations (Amendment) Act 2000

www.cre.gov.uk/legal/rra.html

Diversity and Equality in Planning: A Good Practice Guide (DCLG)

www.communities.gov.uk/pub/506/DiversityandEqualityinPlanningAgoodpracticeguidePDF1415Kb_id1144506.pdf

Equality and Diversity in Local Government In England - Research Report (DCLG)

www.communities.gov.uk/index.asp?id=1136847

Annex A. Examples of racist representations

In the following extracts the words printed in bold, having regard to the context in which they are used, indicate that the representation is of a racist nature.

Application for Take Away Food Shop	Application for a House Extension
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NON-RACIST REPRESENTATIONS

I object to the proposed Indian Take-Away curry shop because it will damage my amenity by way of unpleasant smells, noise and disturbance particularly late at night	I object to the proposed extension. 14 people already live there. Cars parked outside block the pavement If it is approved, house prices will fall. The council should be more responsible
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RACIST REPRESENTATIONS (S31 of 1976 ACT) [applying pressure to discriminate]

I object to the proposed foreign Indian Take-Away curry shop because those coloured people will damage by amenity with their foul foreign smells noise and disturbance, particularly late at night.	I object to the proposed extension for that coloured family. 14 Pakis already live there Cars parked outside by these foreigners block our pavements. If it is approved the number of blacks on the street will make house prices fall The council should be more responsible and look after British people's interests.
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RACIST REPRESENTATIONS (S70of1976ACT) [incitement to racial hatred]

I object to the proposed Indian Take-Away shop because those dirty Asians who have no right to be here anyway will damage the amenity of good white residents with their filthy disgusting cooking smells, noise and disturbance, particularly late at night when we true British people are trying to sleep	I object to the proposed extension for that uncivilised coloured family. 14 Pakis at least live there and the house stinks because they don't know how to live decently Cars parked by these people block the footpath for us white residents. If it is approved house prices will fall on account of these blacks taking over. The council should be more responsible and stop these Pakis from settling here.
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Annex B. Sample letter of response to racist representations

It is important that this letter is signed by the Director in order to demonstrate the total commitment of the Authority, even though the designated officer is responsible for all appropriate action.

Dear

RACE RELATIONS ACT 1976 AND CITY COUNCIL ANTI-RACIST POLICY

I have received from you the enclosed letter dated. It contains statements which may reasonably be considered to be of a racist nature.

It is the policy of the Council, when making decisions on planning and building proposals and applications, to take no account of representations of a racist nature.

The Council, in exercising its functions, has a duty under Section 71 of the Race Relations act 1976 to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

Furthermore, it is unlawful under Section 31 of the Race Relations 1976 to apply pressure to discriminate.

I therefore return your letter as I cannot put your representation, in its current form, before Committee.

You have the right to submit a further representation, and this will be put before the Committee provided it is of a non-racist nature and provided it is received by [whatever time limit applies].

I have to tell you however that if the Council receives any more racist representations from you the matter will be referred to the Commission for Racial Equality or to the police for investigation under the appropriate section of the Race Relations Act 1976.

A copy of the Council's anti-racist policy, including its policy on dealing with racist representations, can be obtained from the Council.

Yours faithfully

Director

The principles contained in this note are relevant to town planners working in all parts of the UK.



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