The

State of

the Nation

Race & Racism in Scotland

2nd Edition 2014, Vol 3

EMPLOYMENT

Ethnicity and Employment in Scotland's Public Sector

CRER

Coalition for Racial Equality and Rights

About CRER

The Coalition for Racial Equality and Rights works to eliminate racial discrimination and promote racial justice across Scotland. Our work takes a strategic approach to tackling deep rooted issues of racial inequality. CRER has experience of anti-racist work covering areas such as community engagement and empowerment, research and resource development, practical training and equality mainstreaming support for Public and Voluntary Sector organisations.

Background:

In 2008 the Coalition for Racial Equality and Rights (CRER, previously known as Glasgow Anti-Racist Alliance) produced a report entitled "State of the Nation: Race and Racism in Scotland". This report recorded a wide range of statistical information broken down by ethnicity, highlighting evidence that Black and Minority Ethnic (BME) people still experience substantial inequalities across many areas of life in Scotland including education, employment, housing, health and criminal justice.

The original intention was to publish State of the Nation as a biannual report. However, this proved difficult due to varying availability of data and the challenges of compiling such large amounts of information every two years. Instead, from 2012 onwards, State of the Nation will be published as an online resource updated via individual themed reports on an on-going basis. This is the first of our reports on ethnicity and public sector employment in Scotland.

Acknowledgements

For further information on this project or the wider work of CRER, please contact:

Mr. Jatin Haria,
Executive Director
Coalition for Racial Equality and Rights
78 Carlton Place, Glasgow G5 9TH
E: jatin@crer.org.uk

Contents

Introduction

Evidence suggests that positive interaction between people from different ethnic backgrounds erodes prejudicial attitudes and helps build cohesive and integrated communities. This interaction can take place in neighbourhoods and communities (i.e. where people live), in social and cultural arenas (where people play) and in employment (where people work).

Of these three aspects of people's lives, achieving integration in the workplace should be the easiest. However, there is ample evidence that people from Black minority ethnic backgrounds suffer disadvantage in the labour market. Some of this is down to structural discrimination in the labour market and some to racial discrimination by employers. The disadvantage in employment often leads to a knock-on effect, leading to, for example, increased poverty amongst people from Black minority ethnic communities, and a lack of provision of appropriate services.

This report explores data on ethnicity and employment in Scotland's public sector. It will present a compilation of the available data, look at some of the difficulties associated with collecting and analysing the data, and make a small number of recommendations based on the findings of the published data.

Public Bodies: Employment Duties

The need to eliminate racial discrimination in employment has been legally recognised ever since the Race Relations Act 1968 which made it illegal to refuse employment to a person on the grounds of colour, race, ethnic or national origins. The revised 1976 Act placed an additional general statutory duty on local authorities to "make appropriate arrangements with a view to securing that their various functions are carried out with due regard to the need— (a) to eliminate unlawful racial discrimination; and (b) to promote equality of opportunity, and good relations, between persons of different racial groups."

Following the Macpherson Inquiry into the murder of Stephen Lawrence, in 2000 the Act was further amended to place public authorities (not just local authorities) under new statutory duties to *promote* race equality. The aim was to ensure public authorities *proactively* provide fair and accessible services, and improve equal opportunities in employment. In relation to achieving fair employment practices, the Act required all listed public bodies to monitor by racial group for staff in post, and applications for employment, promotion and training. Employers with over 150 staff were also required to monitor uptake of training, results of performance appraisals, numbers involved in grievances and disciplinary action and reasons for staff leaving their employment. The monitoring data was required to be published annually. These requirements were largely unchanged by the revised Scottish Specific Public Sector Equality Duties that came about as a result of the Equality Act 2010, with the important addition that public bodies are now also required to *use* the gathered information to better perform the general equality duty and to detail the progress they have made in using this information.

Scottish Specific Public Sector Equality Duties

The general public sector equality duty (section 149 of the Equality Act 2010) came into force on 5 April 2011. The (general) Equality Duty applies to public bodies and others carrying out public functions and requires organisations subject to it to have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation

Advance equality of opportunity between different groups

Foster good relations between different groups

It supports good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient and effective; accessible to all; and which meet different people's needs. The Equality Duty is supported by specific duties, set out in regulations which came into force in Scotland on 27th May 2012. The Scottish Specific Public Sector Equality Duties apply only to those public bodies that are listed in the regulations, and now number some 250 organisations.

Regulation 6 of the Scottish Specific Public Sector Equality Duties makes the following requirement:

Duty to gather and use employee information

6. (1) A listed authority must take steps to gather information on—

(a) the composition of the authority's employees (if any); and

(b) the recruitment, development and retention of persons as employees of the authority, with respect to, in each year, the number and relevant protected characteristics of such persons.

(2) The authority must use this information to better perform the equality duty.

(3) A report published by the listed authority in accordance with regulation 3 must include—

(a) an annual breakdown of information gathered by it in accordance with paragraph (1) which has not been published previously in such a report; and

(b) details of the progress that the authority has made in gathering and using that information to enable it to better perform the equality duty.

Although the 250 listed public bodies in Scotland (as mentioned above) are legally obliged to publish information on the ethnicity of their employees in post and those going through recruitment and related processes, the public bodies under consideration are of varying sizes, and have varying recruitment needs and processes. Even when they have published the required data (and not all do so), there is no standard template for recording the data. Different organisations record on different timeframes, and some publish actual numbers whilst others only give percentages of staff in each ethnic category.

Furthermore, the employment data for all of the listed bodies are not gathered together in one place. Therefore, there is no overview of public sector employment in Scotland with regard to racial equality. Combining the data across the whole public sector in Scotland would make it possible to examine racial equality issues on a wider scale; a scale where something definitive can be said about ethnicity and employment in Scotland's public sector.

This report attempted to do just this; i.e. to gather together all data in relation to ethnicity and employment in Scotland's public sector. We believe this is the first time this has been attempted in Scotland.

In order to compile the report, we surveyed 165 organisations, using Freedom of Information legislation. Our request for data is detailed in Appendix 1. We understood that employment data for most education authorities, community justice authorities and licensing boards were combined with the local council data so these were not separately approached. To ensure a level playing field, we only looked at responses to our FOI (Freedom of Information) requests in terms of collating and analysing the data; in some cases it may well have been the case that the relevant information could have been available from elsewhere.

Many organisations publish the data many months after it has been (internally) collated, so a decision was taken to seek data for the financial year 2011/12. Comparative data for 2010/11 was

also sought. During these years, the public bodies were bound by the previous Specific Race Equality Duties; this was specifically mentioned in the request letter.

For the majority of organisations contacted our FOI should have imposed no additional burden; it already being a legal requirement that the requested data was both held and published. Furthermore, all the bodies approached would be obliged (from 2013) to publish this data under the Specific Duties regulations under the 2010 Equality Act and our FOI should have reflected their ongoing work. Thus even for those bodies which were not previously required to publish the data, it is unlikely that the FOI will have placed any significant burden on them.

This provided a useful secondary purpose for our survey: not only were we able to gather data for the report but we could also determine the extent to which organisations were equipped to meet their 2013 duties, or, in the case of those organisation which had not been covered by the previous duties, alert them to the fact that they would be obliged to provide the data in the immediate future.

The majority of organisations that we sent our FOI requests to were cooperative and fully supported the aims of the project. However, it was necessary to return to the majority of organisation in order to seek clarification on the data provided and/or to ask for the data to be provided in a usable format. It was a disappointment to find the data records held by public bodies to be in such poor shape and it is clear that urgent improvement in design of data collection and presentation is required.

We wish to thank all those organisations that made the effort both to provide the data and to respond promptly to our many queries. Disappointingly, some organisations were somewhat, or very, uncooperative.

Unsurprisingly, there were various difficulties encountered in collating the data.   Therefore, this report also provides a guide to the surveyed organisations as to the various pitfalls encountered when building and publishing their data and seeks to provoke discussion on how the Government, the EHRC and the Information Commissioner's Office recommends these data sets are built and maintained.

These difficulties in collating the data (as outlined later in the report) did not allow us to convert all the data into an analysable format. For staff numbers all the data provided by those organisations named in the acknowledgements were used. For other data categories only a sample of the provided data could be used. Within this sub-sample of organisations data quality varied both across the organisations and across data categories. For this reason some sections of the report do not include all organisations within a category or all categories of organisations. This occurs when either the quality of data was too poor to include the organisation / category or when the staff numbers were too low for analysis. The poor quality of data provided also meant that no meaningful ethnicity analysis can be provided for the uptake of training opportunities nor for applications for promoted posts.

It would have been useful to have an analysis based on all the ethnicity categories as used in the 2011 Census. However, the level of disaggregation by ethnicity is dependent upon the data supplied. In order to maximise the number of institutions utilised in this analysis, we have generally provided data at a level of the poorest quality available, and therefore at the minimal level of disaggregation, namely as 'All white' and 'All Non-white'. In this context 'white' refers to all white ethnicities, including white Scottish, white British, white UK and all 'white Other' categories. The 'All Non-white' refers to all other ethnicities, including 'Mixed' ethnicities. Additional data with an analysis containing additional disaggregation is available for a smaller number of organisations within some specific category of organisations, but apart from some data which disaggregates between the white UK and white Other ethnicities, this has not been included in this summary report.

We are aware of the on-going discussions about the appropriateness of terminologies used, especially around the use of 'non-white'. Additionally, it should be borne in mind that when looking at ethnicity, no indication is given of nationality or place of birth. Similarly, appearance (skin colour) is not always synonymous to ethnicity, despite some of the labels used in Census categories.

Finally, it must be pointed out that the data published in this report will tell us the position on the ground as reported by the data available from listed public bodies; it will not tell us why the position has arisen. However, even though it has not been possible to include all 250 listed bodies in our analysis, and there will be individual issues that are specific to individual organisations, the overall picture shown does point to certain trends in relation to issues regarding ethnicity and public sector employment in Scotland; trends that flag up areas of serious concern and call for further research and deeper analysis, and for action to ensure fair employment for people of all ethnicities in Scotland.

Abbreviations for Employment Sectors

The following abbreviations have been used throughout:

- Fire: Fire and Rescue services

- FE: Further Education (colleges)

- HE: Higher Education (universities)

- LA: Local Authorities

- Large: Miscellaneous organisations with more than 150 employees

- Small: Miscellaneous organisations with fewer than 150 employees

- Police: Police Services

Data Limitations and Caveats

Data Inconsistencies Produce Percentage Inconsistencies
The ethnicity categories and the level of ethnicity disaggregation utilised were not consistent between institutions.   When figures are provided for any set of ethnicity categories, the maximal data were utilised. Values may therefore be inconsistent between sections, e.g. the number of short listed candidates may not be the same in the sections examining applicants short listed and short listed candidates appointed. This is because some institutions may have provided both application and short listed data but not appointment data, and some may have provided both short listed and appointment data, but not applications data. The sets of institutions used in the two analyses may not be identical.

Data provided with limited data specification
In some cases organisations provided data such as "less [fewer] than or equal to 10 and greater than zero", "less [fewer] than or equal to five and greater than zero" or "less [fewer] than five and greater than zero". This has a significant implication for data analysis and is discussed in more detail later in this report.

For those organisations that provided data in the former category (and refused to modify the data), this was considered to be a refusal to provide the data, and information from these organisations was not used. Where data were provided as greater than zero and less than or equal to five the value two was arbitrarily assigned.
Where differences between years are reported, this does not necessarily indicate a longitudinal study of organisations within a given sectors. The sets of organisations contributing data to the figures for each year may not be the same and their individual ethnicity figures may be different although relatively consistent within each organisation over the years. The danger of drawing conclusions about "real" differences in ethnicity figures between the years examined is obvious when the number of organisations contributing data to each year is different, but is less apparent when the number of contributing organisations is the same for both years.

Declined/Unknown
It is useful to be able to differentiate between these two categories. However, due to the confusion in their use within a large number of organisations, the data for the two categories were combined into a single 'unknown' category.

Analysis was restricted throughout to staff of known ethnicity. "Unknown" percentages were provided for reference but were not used within calculations.

Scotland's Demographics by Ethnicity

Individual organisations will have their own recruitment catchment areas, and these will be variable depending on the types of post and salary levels on offer. As such, analysis of applicants or staff in post needs to be carried out at least at an individual organisational level. Nonetheless, an outline of the 2011 Population Census data for Scotland broken down by ethnicity is provided below.

Scottish Population	5295403	
White	**5084407**	**96.0%**
White: Scottish	4445678	84.0%
White: Other British	417109	7.9%
White: Irish	54090	1.0%
White: Gypsy/Traveller	4212	0.1%
White: Polish	61201	1.2%
White: Other White	102117	1.9%
Mixed or multiple ethnic groups	**19815**	**0.4%**
Asian, Asian Scottish or Asian British	**140678**	**2.7%**
Asian, Asian Scottish or Asian British: Pakistani, Pakistani Scottish or Pakistani British	49381	0.9%
Asian, Asian Scottish or Asian British: Indian, Indian Scottish or Indian British	32706	0.6%
Asian, Asian Scottish or Asian British: Bangladeshi, Bangladeshi Scottish or Bangladeshi British	3788	0.1%
Asian, Asian Scottish or Asian British: Chinese, Chinese Scottish or Chinese British	33706	0.6%
Asian, Asian Scottish or Asian British: Other Asian	21097	0.4%
African	**29638**	**0.6%**
African: African, African Scottish or African British	29186	0.6%
African: Other African	452	0.0%
Caribbean or Black	**6540**	**0.1%**
Caribbean or Black: Caribbean, Caribbean Scottish or Caribbean British	3430	0.1%
Caribbean or Black: Black, Black Scottish or Black British	2380	0.0%
Caribbean or Black: Other Caribbean or Black	730	0.0%
Other ethnic groups	**14325**	**0.3%**
Other ethnic groups: Arab, Arab Scottish or Arab British	9366	0.2%
Other ethnic groups: Other ethnic group	4959	0.1%

(C) Crown copyright. Data supplied by National Records of Scotland .
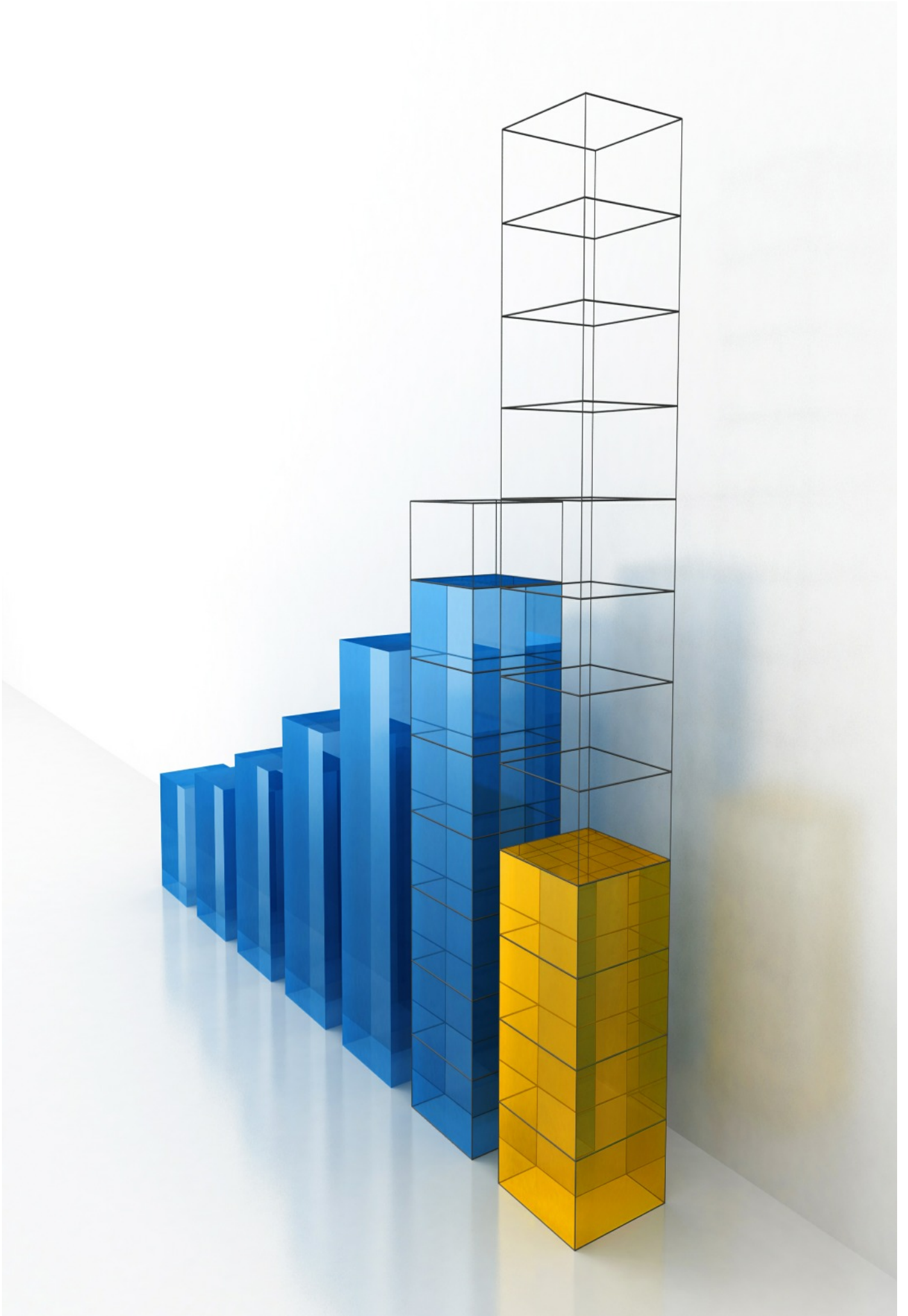
Data Gathering and Analysis

Staff Numbers

The following numbers of organisations provided a response to our employee survey:

Total	Fire	FE	HE	LA	Large	NHS	Small	Police
123	5	27	13	24	13	20	13	8

Scottish Public Sector Workforce Profile by Ethnicity

The table below provides data on the workforce profile broken down into two groupings – all white, and all non-white. As explained above, this analysis maximises the number of institutions covered – as ethnicities are further disaggregated the number of institutions that can be utilised in the analysis falls rapidly.

Staff in Post

	All White, All Non-White, All Unknown									
	Numbers									
	2010-11	Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	331368	4572	10133	28482	160411	10033	93267	371	24099
	All Non White	8753	40	174	2233	2714	201	3085	8	298
	Unknown	89450	300	823	3448	36500	2705	44834	31	809
	Organisations	109	5	23	13	22	11	18	9	8
	2011-12	Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	283184	4504	9433	29101	109383	11334	95000	1917	22512
	All Non White	7994	38	147	2305	1188	224	3764	32	296
	Unknown	90557	289	632	3462	36203	3045	45929	49	948
	Organisations	112	5	23	13	20	12	19	12	8
	Percentages									
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
% of Known	All White	97.4%	99.1%	98.3%	92.7%	98.3%	98.0%	96.8%	97.9%	98.8%
	All Non White	2.6%	0.9%	1.7%	7.3%	1.7%	2.0%	3.2%	2.1%	1.2%
% of Total	Unknown	20.8%	6.1%	7.4%	10.1%	18.3%	20.9%	31.8%	7.6%	3.2%
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
% of Known	All White	97.3%	99.2%	98.5%	92.7%	98.9%	98.1%	96.2%	98.4%	98.7%
	All Non White	2.7%	0.8%	1.5%	7.3%	1.1%	1.9%	3.8%	1.6%	1.3%
% of Total	Unknown	23.7%	6.0%	6.2%	9.9%	24.7%	20.9%	31.7%	2.5%	4.0%

The figure for unknown (23.7% in 2011/12) continues to be a cause for concern, not least because in the main public bodies have had a duty to collect such information from 2002 onwards. The increase in the numbers unknown from the 2010/11 figure shows that the situation did not improve on a year-to-year basis. Of particular concern is the fact that in the NHS information on the ethnicity of staff is missing for about a third of the workforce – this in an industry where knowledge of the ethnicity of service users (i.e. patients) is of arguably more importance than in any other sector, and therefore calls into question how staff can be asking for ethnicity information from patients if they themselves are not being asked for their own information, and more so if they themselves are reluctant to divulge this information to their employers.

There is considerable variation in the percentages of all non-white staff across sectors, with the Higher Education sector reporting 7.3%, NHS 3.8%, Local Authorities 1.1% and Fire just 0.8%. No analysis is possible from the data provided of issues that might skew some of these figures – e.g. the employment of overseas staff in academic institutions or in the NHS.

Recruitment

The precise nature of recruitment data will vary from organisation to organisation. It may follow specific cohorts of individuals, but no organisation has indicated that this was so, and some indicated that this was not the case. This introduces an element of error in the analysis. In comparing applicants to those short listed it is implicit that the two are related, but this relationship is that the two data sets span the same period; not necessarily that the collections of individuals are the same. It might, for example, be the case that some individuals short listed are actually applicants from the previous year's data.

The recruitment analysis is split into the following sections:
- Applications by ethnicity;

- Applicants short listed, short listed candidates appointed, and applicants appointed, all by ethnicity.

Applications for posts										
	2010-11	Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	215384	125	3942	34560	87183	1838	78935	253	8548
	All Non-White	24077	4	276	11445	4154	330	7606	11	251
	Unknown	11514	193	502	5381	3371	279	1711	35	42
	Organisations	55	2	10	6	12	3	10	6	6
	2011-12	Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	225379	1016	5642	45887	70842	5738	85316	149	10789
	All Non-White	29297	19	287	14391	2766	508	11001	21	304
	Unknown	12015	132	299	4347	4988	619	1361	154	115
	Organisations	57	2	12	6	8	6	11	6	6
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
% of Known	All White	89.9%	96.9%	93.5%	75.1%	95.5%	84.8%	91.2%	95.8%	97.1%
	All Non-White	10.1%	3.1%	6.5%	24.9%	4.5%	15.2%	8.8%	4.2%	2.9%
% of Total	Unknown	4.6%	59.9%	10.6%	10.5%	3.6%	11.4%	1.9%	11.7%	0.5%
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
% of Known	All White	88.5%	98.2%	95.2%	76.1%	96.2%	91.9%	88.6%	87.6%	97.3%
	All Non-White	11.5%	1.8%	4.8%	23.9%	3.8%	8.1%	11.4%	12.4%	2.7%
% of Total	Unknown	4.5%	11.3%	4.8%	6.7%	6.3%	9.0%	1.4%	47.5%	1.0%

In both 2010/11 and 2011/12, the overall proportion of all non-white applicants exceeded their proportion within the Scottish population, perhaps debunking the myth that Black minority ethnic people do not apply for public sector jobs. However, there was a wide variation between the sectors, with 1.8% of non-white applicants for Fire jobs, and 23.9% of non-white applicants for posts in the HE sector (although again no analysis is available to determine if this 23.9% figure was skewed by applicants from overseas).

The high figure (47.5%) for unknown ethnicity for applicants to small public sector bodies is of concern.

Applicants Short listed

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Applications	All White	128242	125	3942	17779	75958	1153	25375	2	3908
	All Non-White	11668	4	276	5874	3525	41	1819	1	128
	Unknown	7178	193	502	2860	1990	38	1562	33	0
Short listed	All White	33735	73	1093	5553	19454	393	6136	2	1031
	All Non-White	2177	1	44	1181	593	5	343	0	10
	Unknown	1304	43	113	114	580	8	429	17	0
Organisations		41	2	10	4	10	2	7	4	2
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Applications	All White	181366	1016	4774	25426	63460	2440	78107	44	6099
	All Non-White	22839	19	261	8968	2505	375	10553	3	155
	Unknown	10496	132	292	3239	4988	444	1246	153	2
Short listed	All White	57214	882	1391	7591	13502	576	31559	17	1696
	All Non-White	7512	16	36	1955	360	24	5090	1	30
	Unknown	1386	43	42	149	665	59	379	47	2
Organisations		44	2	10	5	7	4	9	4	3

2010-11		Total		FE	HE	LA	Large	NHS		Police
	All White	26.3%		27.7%	31.2%	25.6%	34.1%	24.2%		26.4%
	All Non-White	18.7%		15.9%	20.1%	16.8%	12.2%	18.9%		7.8%
2011-12		Total		FE	HE	LA	Large	NHS		Police
	All White	31.5%		29.1%	29.9%	21.3%	23.6%	40.4%		27.8%
	All Non-White	32.9%		13.8%	21.8%	14.4%	6.4%	48.2%		19.4%

In 2010/11 the All White category had a higher success rate (+7.6%) in terms of the percentage of applicants who were short-listed for interview. However, the situation equalised in 2011/12, although this equalisation was entirely due to the relative high success rate of the non-white category within the NHS.

For all other sectors, the disparity between the percentage of applicants from Black minority ethnic backgrounds and the percentage subsequently short listed remains a cause of concern and one that calls for urgent further investigation.

Short listed Candidates Appointed

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Short listed	White UK	24306	83	890	2420	15413	0	5498	2	0
	Other White	4635	0	44	3133	973	0	485	0	0
	All Non-White	2083	1	36	1181	530	0	335	0	0
	Unknown	1226	56	96	114	519	0	424	17	0
Appointed	White UK	7220	25	284	397	4878	0	1629	7	0
	Other White	577	0	20	238	170	0	148	1	0
	All Non-White	368	0	6	115	86	0	160	1	0
	Unknown	390	16	23	51	130	0	170	0	0
Organisations		35	3	9	4	9	0	6	4	0
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Short listed	White UK	44935	878	1310	3945	10389	209	28186	18	0
	Other White	7288	10	81	3646	337	75	3138	1	0
	All Non-White	7368	16	36	1955	265	22	5073	1	0
	Unknown	1171	51	42	149	458	53	371	47	0
Appointed	White UK	9897	44	459	766	3249	95	5268	16	0
	Other White	1323	1	28	574	172	19	528	1	0
	All Non-White	949	0	7	203	47	4	688	0	0
	Unknown	1088	6	6	169	169	95	643	0	0
Organisations		39	3	10	5	6	2	8	5	0

Percentage Appointed

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	29.7%		31.9%	16.4%	31.6%		29.6%		
	Other White	12.4%		45.5%	7.6%	17.5%		30.5%		
	All Non-White	17.7%		16.7%	9.7%	16.2%		47.8%		
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	22.0%		35.0%	19.4%	31.3%	45.5%	18.7%		
	Other White	18.2%		34.6%	15.7%	51.0%	25.3%	16.8%		
	All Non-White	12.9%		19.4%	10.4%	17.7%	18.2%	13.6%		

Adding to the disparity from application to being short-listed, the disparity between the percentage of short listed applicants from Black minority ethnic backgrounds and the percentage subsequently appointed is also of concern.

It would be reasonable to assume that candidates who have been short listed have met the minimum requirements of the person specification for advertised posts, so certain factors (e.g. qualification requirements) can be discounted for in attempting to explain the difference in outcomes. But there must be reasons as to why, for example, only 17.7% of non-white people interviewed for local authority jobs are appointed, compared to a figure of 31.9% for white interviewees.

Applicants Appointed

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Applications	White UK	119540	124	3311	21517	69102	284	25200	2	0
	Other White	20541	1	325	13043	4428	401	2343	0	0
	All Non-White	17620	4	255	11445	3851	289	1768	8	0
	Unknown	11099	193	474	5381	3159	241	1618	33	0
Appointed	White UK	8461	15	284	1420	4942	44	1749	7	0
	Other White	1090	0	20	722	178	17	152	1	0
	All Non-White	636	0	6	371	91	3	164	1	0
	Unknown	889	9	23	466	140	43	208	0	0
Organisations		40	2	9	6	10	1	7	5	0
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Applications	White UK	160638	1004	5240	27854	53017	1340	72146	37	0
	Other White	28489	12	402	18033	2436	366	7233	7	0
	All Non-White	27829	19	287	14391	2283	366	10465	18	0
	Unknown	11348	132	299	4347	4614	559	1244	153	0
Appointed	White UK	11396	38	561	2090	3249	109	5334	15	0
	Other White	1918	1	40	1155	172	20	529	1	0
	All Non-White	1236	0	9	488	47	4	688	0	0
	Unknown	1517	4	13	561	169	96	674	0	0
Organisations		43	2	12	6	6	3	9	5	0

Percentage Appointed

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	7.1%		8.6%	6.6%	7.2%	15.5%	6.9%		
	Other White	5.3%		6.2%	5.5%	4.0%	4.2%	6.5%		
	All Non-White	3.6%		2.4%	3.2%	2.4%	1.0%	9.3%		
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	7.1%		10.7%	7.5%	6.1%	8.1%	7.4%		
	Other White	6.7%		10.0%	6.4%	7.1%	5.5%	7.3%		
	All Non-White	4.4%		3.1%	3.4%	2.1%	1.1%	6.6%		

The compounded disparity between white and non-white applicants who are short listed and then appointed leads to a situation where 7.1% of all white applicants for public sector posts go on to be appointed, but where only 4.4% of non-white applicants get appointed.

This figure is at its starkest in large public sector organisations – where Black minority ethnic applicants only have a 1.1% chance of being subsequently appointed, compared to 8.1% for their white counterparts. Even within local authorities, white applicants are almost three times more likely to be successful in securing a post than non-white applicants – 6.1% compared to 2.1%.

Promotion

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	42389	1252	1935	4309	22760	169	9182	210	2572
	All Non-White	764	9	32	232	241	3	223	4	20
	Unknown	6318	22	22	137	3259	0	2621	0	257
Applications	All White	7939	45	96	209	7299	74	60	18	138
	All Non-White	530	0	2	17	503	1	5	1	1
	Unknown	165	10	2	3	108	0	40	0	2
Organisations		23	2	3	3	3	1	3	6	2
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	31839	731	2518	4792	7979	170	8991	194	6464
	All Non-White	712	6	37	289	60	2	234	4	80
	Unknown	5672	0	224	146	2655	0	2183	0	464
Applications	All White	2407	60	177	238	1185	42	163	12	530
	All Non-White	69	1	4	17	19	0	23	0	5
	Unknown	97	8	7	2	9	0	47	11	13
Organisations		24	1	5	3	2	1	3	6	3

Ratio of applications to staff members

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	0.19		0.05	0.05	0.32		0.01		
	All Non-White	0.69		0.06	0.07	2.09		0.02		
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	0.08		0.07	0.05	0.15		0.02		0.08
	All Non-White	0.1		0.11	0.06	0.32		0.1		0.06

The data suggests that the ratio of applicants to staff numbers for non-white staff is treble that of All white staff in 2010/11, although this equalises in 2011/12. Local authorities had a consistently higher ratio of applicants from the non-white category.

Applicants who are promoted

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	116544	2456	1935	7105	50191	169	32316	210	22162
	All Non-White	2079	18	32	442	446	3	843	4	291
	Unknown	20978	297	22	284	7467	0	12423	0	485
Promoted	All White	4547	394	45	161	2691	16	626	5	609
	All Non-white	72	1	0	20	27	0	22	0	2
	Unknown	335	55	1	3	17	0	256	0	3
Organisations		38	3	3	4	6	1	8	6	7
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	99231	2433	2518	7535	33935	170	33218	194	19228
	All Non-White	2527	17	37	503	264	2	1422	4	278
	Unknown	20751	285	224	314	6831	0	12520	0	577
Promoted	All White	3614	375	38	164	846	13	835	7	1336
	All Non-White	56	2	1	14	7	0	24	0	8
	Unknown	451	52	0	4	20	0	369	2	4
Organisations		40	3	5	4	6	1	9	6	6

Percentage Promoted

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	3.9%			2.3%	5.4%		1.9%		2.7%
	All Non-White	3.5%			4.5%	6.1%		2.6%		0.7%
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	3.6%			2.2%	2.5%		2.5%		6.9%
	All Non-White	2.2%			2.8%	2.7%		1.7%		2.9%

The figures for applicants who actually get promoted seem fairly even, except for promotions within the Police. However, some police forces figures include all staff in successful promotions but only police officers in promotion applications. This means that within the police force no direct link can be made between applications and promotions. Given that, in addition to this confounding factor, there are likely to be similar complications to those already noted earlier, comparisons are again made with staff numbers and not between actual applicants and appointees.

Discipline & Grievance

Data on disciplinary hearings and grievances represent incidences and not individuals, so an individual may be represented on multiple occasions.

Staff and Number of people undergoing Disciplinary Hearings

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	95691	1252	4965	7105	39325	922	32493	246	9383
	All Non-White	1910	9	88	442	380	24	876	6	85
	Unknown	20148	22	505	284	5770	152	12876	15	524
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	1104	21	49	54	683	56	188	1	52
	All Non-White	36	2	1	1	5	1	26	0	0
	Unknown	172	0	4	3	31	23	92	0	19
Organisations		49	2	10	4	9	3	8	8	5
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	119626	1229	5071	7535	37026	898	58465	281	9121
	All Non-White	3728	7	82	503	344	23	2676	10	83
	Unknown	32082	10	388	314	6442	124	24138	37	629
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	2310	21	49	53	718	57	1356	1	55
	All Non-White	62	1	0	8	3	4	46	0	0
	Unknown	185	1	2	4	38	5	122	0	13
Organisations		50	2	11	4	7	3	10	8	5

Percentage Disciplined

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	1.2%		1.0%	0.8%	1.7%		0.6%		0.6%
	All Non-White	1.9%		1.1%	0.2%	1.3%		3.0%		0.0%
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	1.9%		1.0%	0.7%	1.9%		2.3%		0.6%
	All Non-White	1.7%		0.0%	1.6%	0.9%		1.7%		0.0%

Grievance

Only a small number of organisations were able to provide meaningful data on disciplinary hearings and grievances, and differences between white and non-white staff were largely marginal.

Staff and Number of People Initiating Grievance Procedures										
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	94956	1252	4230	7105	39325	922	32493	246	9383
	All Non-White	1892	9	70	442	380	24	876	6	85
	Unknown	20034	22	391	284	5770	152	12876	15	524
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	404	2	19	18	81	22	216	0	46
	All Non-White	58	0	2	0	1	0	55	0	0
	Unknown	86	0	0	0	53	1	25	0	7
Organisations		47	2	8	4	9	3	8	8	5
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	All White	119383	1229	4828	7535	37026	898	58465	281	9121
	All Non-White	3723	7	77	503	344	23	2676	10	83
	Unknown	32049	10	355	314	6442	124	24138	37	629
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Grievance	All White	463	2	31	10	50	22	302	11	35
	All Non-White	34	0	0	1	0	0	31	1	1
	Unknown	172	0	1	1	133	1	28	1	7
Organisations		49	2	10	4	7	3	10	8	5
Percentage Initiated Grievance										
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	0.4%		0.4%	0.3%	0.2%		0.7%		0.5%
	All Non-White	3.1%		2.9%	0.0%	0.3%		6.3%		0.0%
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	All White	0.4%		0.6%	0.1%	0.1%		0.5%		0.4%
	All Non-White	0.9%		0.0%	0.2%	0.0%		1.2%		1.2%

Leavers

Data on leavers was of particularly poor quality. The nature of the data is more extensively discussed later in this report.

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Voluntary	White UK	1564	40	541	209	558	43	33	55	85
	Other White	224	0	27	167	11	13	2	2	2
	All Non-White	54	0	9	37	3	3	2	0	0
	Unknown	324	5	60	36	75	37	73	34	4
Terminated	White UK	450	0	213	57	118	36	2	9	15
	Other White	145	0	13	116	2	11	0	2	1
	All Non-White	39	0	3	32	0	2	0	2	0
	Unknown	305	0	45	46	174	17	22	0	1
Organisations		28	2	10	3	2	3	3	4	1
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Voluntary	White UK	1418	57	364	269	553	59	39	20	57
	Other White	285	1	12	228	25	17	2	0	0
	All Non-White	54	1	3	41	4	1	2	2	0
	Unknown	368	3	24	41	99	55	110	32	4
Terminated	White UK	484	0	237	45	155	35	0	1	11
	Other White	164	0	14	123	12	12	2	0	1
	All Non-White	46	0	8	36	1	1	0	0	0
	Unknown	345	0	102	50	128	39	25	0	1
Organisations		30	2	10	3	2	4	3	5	1

Terminated as a Percentage of Voluntary

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	28.8%			27.3%					
	Other White	64.7%			69.5%					
	All Non-White	72.2%			86.5%					
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	34.1%			16.7%					
	Other White	57.5%			53.9%					
	All Non-White	85.2%			87.8%					

Within this analysis the following definitions were used:-

Excluded data: Some data was excluded from the analysis where the basis that the "decision" to end employment with the organisation was taken by neither the employee nor employer (e.g. because an employee died). Similarly, "termination" on grounds of ill-health was excluded from the analysis. However, "dismissal" on grounds of ill-health was included in the analysis as capability dismissal.

Voluntary: This refers to all individuals who left voluntarily with no aspect of the decision taken by the employer.

Terminated: This would include redundancy, or termination on end of contract (regardless of contract length). It is possible, should discriminatory employment practices exist, that certain ethnic groups may be more likely to be employed on less stable contracts.

Total: This includes all leavers data, regardless of whether or not the cause of leaving was known (with the exception of data previously defined as excluded).

The sample sizes were small, especially in relation to leavers from the non-white category and therefore no further analysis is provided.

Total number of staff and total leavers

2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	White UK	14470	1245	2771	8368	0	536	389	40	1121
	Other White	3563	7	94	3136	0	94	220	0	12
	All Non-White	984	9	33	906	0	14	13	0	9
	Unknown	2493	22	319	1443	0	286	370	0	53
Total Leavers	White UK	2268	43	395	1600	0	79	35	14	102
	Other White	649	0	18	601	0	25	2	0	3
	All Non-White	313	0	5	301	0	5	2	0	0
	Unknown	837	5	54	651	0	57	31	34	5
Organisations		25	2	7	5	0	3	2	5	1
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
Staff	White UK	15291	1223	2971	8428	0	1076	370	133	1090
	Other White	3578	6	93	3166	0	90	212	2	9
	All Non-White	1014	7	33	913	0	33	13	6	9
	Unknown	2544	10	250	1454	0	334	389	37	70
Total Leavers	White UK	2189	61	466	1448	0	96	39	10	69
	Other White	670	1	12	623	0	29	4	0	1
	All Non-White	306	0	8	293	0	2	2	1	0
	Unknown	1094	3	117	779	0	99	59	32	5
Organisations		28	2	8	5	0	4	2	6	1
Percentage Total Leavers										
2010-11		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	15.7%		19.1%						
	Other White	18.2%		19.2%						
	All Non-White	31.8%		33.2%						
2011-12		Total	Fire	FE	HE	LA	Large	NHS	Small	Police
	White UK	14.3%		17.2%						
	Other White	18.7%		19.7%						
	All Non-White	30.2%		32.1%						

The bulk of the data provided came from the HE sector and shows that non-white staff are twice as likely to leave employment as their white counterparts. An urgent review is required to ascertain whether this trend is consistent across all other sectors or not.

Recommendations:

- Public bodies, in complying with the Scottish Public Sector Specific Duties, need to gather equalities monitoring information on their employees and applicants, and to publish this information in an accessible manner;

- For ethnicity data, this information should be collated using <u>all</u> the ethnicity categories as used in the 2011 Scottish population Census;

- Efforts need to be made to ensure that data is obtained for as close to 100% as possible of employees and applicants; where data gaps exist, these should be separately identified as information declined or information unknown;

- Data should be gathered and published in relation to all aspects of composition, recruitment, development and retention;

- Wherever possible, exact numbers should be given for recording data in all categories; zeros in any category should be specifically stated as such;

- The Data Protection Act should not be used to negate equalities monitoring responsibilities. If Data Protection Act concerns are relevant, data should be aggregated up to the lowest level possible where these concerns dissipate; specific data could still be made available on a limited access basis for more in-depth analysis;

- A common recording and reporting template could be used for recording all such data by Scotland's public sector bodies;

- Urgent action is needed to ascertain why the discrepancies found in this CRER report are occurring – public bodies need to explain the imbalances shown for Black minority ethnic people in the recruitment process, from application to short-listing, and from interviews to appointments.

DATA QUALITY

Data Quality and Accessibility

As mentioned in the introduction we encountered a great number of difficulties in collating the data.

Sometimes there were difficulties in just trying to obtain the data. The EHRC (Equality and Human Rights Commission) guidance on reporting on the specific duties states that the published material (which includes employment information) must be "*accessible to the public*". Although the guidance does not provide details on accessibility it is reasonable to assume that many of the issues identified below will impact directly upon the issue of accessibility. Furthermore, accessible must also mean that when access to the data is sought it should be provided without demands for very substantial sums of money or an insistence that most of the data does not exist.

There are a range of actions which public bodies might take to ensure a good impression to those inspecting their data. Many of the suggestions within this document, if adopted, will improve accessibility. To that list might be added physical accessibility. If organisations are serious with regards to equality then the data they present should be available for study, and that means that it should be presented in a format which can be downloaded by interested parties.

However, difficulties were encountered even when data was made available to us. Proper analysis of employment related data would require the information provided to be disaggregated by ethnicity, ideally using the ethnicity categories as specified in the 2011 Scottish population Census. Although many organisations provided us with data that was disaggregated to some extent or other, in this particular report we have had to present the summarised information at the level of the poorest quality provided. As explained earlier, this allowed us to maximise the number of organisations that we could include in the analysis. However, we hope that in future reports we are better able to present disaggregated data, and therefore provide the following commentary and recommendations for improvements as we go forward:

Categories of Ethnicity

Confusing Definitions

A remarkably large number of returns included category combinations which defied any rational explanation. For example, each of the below appeared side by side within a single organisation's data set:

- White and white Other

- White, Any Other white Background, white - Other

- White British, white UK

- White, white Scottish, white English, white Irish, white British, Other white British, Other white

- White – Eastern European and white – Eastern European (e.g. Polish).

- African Caribbean, Black Other, Caribbean, Other African

- Other Black, Other Black Ethnic Background

Some thought should be given both to what the actual categories mean and how an individual from outwith the organisation might interpret them.

Overlaps between category definitions should always be minimised, preferably avoided. Failure to do so could arguably give the impression that the organisation is being deliberately obstructive and has something to hide.

'White British' and 'white UK' may be a single category, or if the intention is to differentiate between white UK and white British then the categories might be white British and white Northern Irish. Prior to determining categories and collecting data the intention behind its collection should be clearly identified.

The combination 'white', 'Any other white Background' and 'white Other' highlights two important points. In order for an organisation to avoid looking rather foolish several identical or overlapping categories should not appear on the same data set. If one category is universal, clearly any individual defining themselves as white fits in the 'white' category, then an alternative Other category should not exist.

It is important to be aware of the 'standard' use of category definitions. Caribbean or Black is categorised in the Census as one of three sub-categories ('Caribbean, Caribbean Scottish or Caribbean Black', 'Black, Black Scottish or Black British', or 'Other Caribbean or Black').

If a non-standard set of categories is being used it should be accompanied with a clear explanation. What is the difference between 'African Caribbean' and 'Caribbean'? Was 'Caribbean' non-white non-African Caribbean, or white Caribbean or something else? If it was white Caribbean then how did that definition fit with the 'white Other' definition also present within the data set?

The category white British is commonly used; perhaps the majority of organisations make reference to this category.   When used with other non-overlapping white categories it allows differentiation between white people from the UK and white people from outwith, e.g. white Irish. If it is considered desirable to monitor the constituent nations of the UK then the utility of the 'white British' (WB) category is questionable.

 In the interests of allowing people to self-define as British alternative categories might be:

● White British Scottish/ Scottish

● White British English/ English

● etc.

This would fit in with the Census categories as it would allow for data to be aggregated to white Scottish and white: other British.

If there is no intent to monitor data in relation to the indigenous white ethnicities (and assuming some divisions between different white groups) then all the relevant categories might be collapsed into a single extended category:

● White UK: British/Scottish/English/Welsh/Northern Irish.

Altered Categories

Several organisations altered their methods of data recording mid-way through the annual cycle. This had two results:

● Categories were split, creating two or more new categories, the old categories either no longer being used or continuing but with a new definition.

● Unaltered categories were frequently recorded as 'old' and 'new', e.g. White Old Irish and White Irish.

For the purpose of any individual examining the data, there are several impacts of modifying the methodology partway through the annual cycle:

- If the data were presented as a year's data then, depending upon the point during the time period when the categories were disaggregated, either the 'old' or the 'new' categories may appear to be disproportionately small. For example, one organisation disaggregated 'Other' by creating a new 'Arab' category. As the new category had barely two months' data, recruitment from the 'Arab' population appeared rather low.

- If the categories cannot be re-aggregated then the data cannot easily be used within any wider study.

- If the categories cannot be re-aggregated that it is impossible for that organisation to examine its data over a period of years, perhaps making it impossible to assess the impact of new practices.

The failure to combine identical old and new categories resulted in considerable confusion and rendered the data unsuitable for inspection.

Ethnicity categories should be consistent throughout the annual cycle. Indeed, we would suggest that the ethnicity categories used in the 2011 Census be utilised from now on.

If new (sub) categories are introduced it should be made clear how the new categories may be aggregated to maintain data consistency with the first part of the 'year' or from year to year. Artificial divisions should not be created within the data; where 'old' and 'new' are identical the data should be aggregated in its presentation.

Level of Disaggregation

The level of disaggregation varied highly between organisations. In some cases, there could be multiple Asian/Scottish/British categories, e.g. Indian, Chinese, Bangladeshi, Other-Asian, or a single Asian category or indeed no Asian category and simply a non-white category.

It can be argued that where organisations have very few Black minority ethnic employees greater aggregation of categories could help protect the identity or prevent the identification of any one individual staff member.   However, aggregation also makes it impossible to identify systematic discrimination against any of the constituent groups. It might further be asked, if it is not harmful to know that an organisation contains x number of individuals who are not white, why is it harmful to know that an organisation contains x number of individuals who are Asian/Scottish/British Bangladeshi? However, this argument must also be considered from the perspective on less visible ethnic minorities; it may be easy to identify the one Bangladeshi working with the organisation, but the one Gypsy Traveller? Data protection issues as detailed below may also apply.

Unknown / Not Disclosed

These two categories are often combined; however, they are not equivalent.
The former may indicate a failure to gather the information, a partially completed form or inadequate record maintenance by the organisation in question, the latter a deliberate decision not to disclose.

High levels of non-disclosure may indicate that employees (and potential employees) have some concerns regarding the handling of the data or the need for gathering it. This being the case, an organisation that takes racial equality seriously would be expected to identify the cause of unease and seek to reassure employees and applicants both of the security of the data and of its value.

If organisations do not wish to give the appearance of hiding information, or indifference to accurate recording, they should record figures for unknowns and refusal to disclose, and these two categories should be kept separate. Blank returns should be incorporated into the refusal to disclose category.

Low Numbers

There was a wide range of responses to the (potential) individual privacy / data protection difficulties presented by low numbers within any given ethnic group.
The responses included:

- Reporting all values regardless of numbers (the overwhelming majority of responses)

- Coding a non-value, e.g. stating 2 when the value was between 1 or 0 and five.

- Coding using a symbol e.g. '*'

  - Coding values from one to four as '*', clearly differentiating between this and zero (the next largest group of responses, fewer than 10 organisations).

  - As above, but coding values from one to nine as '*' (a couple of organisations).

  - Combining ethnicity categories in order to exceed the value of ten (four or five organisations).

  - Using the '*' for numbers under five or ten but not differentiating between zero and less than five or ten (fewer than six organisations in total).

In terms of analysis, the latter category (failure to differentiate between zero and an actual presence) presents insurmountable obstacles. More importantly, this approach effectively evades any scrutiny of ethnic monitoring. To take the extreme example (when used the organisation presented the excuse that this was recommended by EHRC), if the '*' represents zero to nine then an organisation may employ 9 individuals of various ethnicities: 9 Pakistani, 9 Indian, 9 Bangladeshi, 9 Chinese, 9 Other Asian, 9 Caribbean, 9 African, 9 Other Black, and 9 All Other. This being the case, the organisation could have almost 100 individuals falling within the common Black minority ethnic categories. However, the organisation may equally employ zero individuals falling within these minority categories. Thus for an organisation of 500 individuals the number who come from a Black minority ethnic group may be 18% or 0% or somewhere in between. It is difficult to understand how any organisation can claim to take the Equalities Duties seriously but then publish data of absolutely no value whatsoever.

There is a similar, though slightly less problematic objection to data presented as 1-9. Whilst data presented as 1-9 make it difficult to assess employment practices across a sector (see above), this does at least provide information on whether or not the organisation actually employs anybody of minority ethnic extraction – which of course the 0-9 practice renders impossible.

Presenting data as zero *or* less than five has several advantages over 0-9 or 1-9.   In comparison with the latter, and considering the above example, the potential variation in percentages is reduced from 0 to 18% to 0 to 8%. For the purposes of cross-sectoral studies an estimate can be more easily used (2 was used in our report) which has a limited degree of error (maximum of 2). The necessity of using estimated values is not ideal, but the alternative is no estimate whatsoever. The Data Protection Act does not allow data to be gathered on individuals without a specific purpose. If figures do not differentiate between numbers of fewer than 10 and 0, then they are of no practical value, and the gathering of detailed information on the ethnicity of an individual could be questionable.

A further problem occurs where data sets use zeros, blanks and dashes interchangeably, often within the same table. The use of any symbol other than zero to represent zero is not intuitive, even less so when other symbols are used in combination with zero in the same table. Whilst a blank or dash may represent zero it may equally represent null – and zero and null are not the same.

A zero return means that it is <u>known</u> that none of ethnic group X work within the organisation. A null return indicates that no data have been returned; it is <u>not known</u> if ethnic group X is within the organisation. We would recommend that organisations be consistent in presentation - use a zero or a symbol, not both, and if a symbol is used, outline what it refers to and any parameters that apply to its use.

CRER would recommend that organisations disaggregate their data by the full range of ethnicity categories as outlined in the 2011 Census, even where this relates to fewer than 10 individuals. However, if organisations take a decision not to report on ethnicities containing fewer than ten individuals then ethnicity categories could be aggregated to ensure that categories do not fall below ten in value. This would result in most ethnicity categories being dropped from most data sets, but this is certainly preferable to a situation where no effective ethnic monitoring occurs.

Data Protection Discussion

The following section is not intended to be a definitive guide to data protection. It is intended to open up discussion on what may, or may not, be done with regards to providing equalities data within the confines of Data Protection Regulations.

Given the diverse range of attitudes towards the Equality and Data Protection Acts further guidance from ICO (Information Commissioner's Office) and EHRC is clearly required. As it stands some (a very few) organisations used Data Protection reasons to give an absolute refusal to cooperate with the present study. If the Scottish Specific Public Sector Equality Duties are to have any meaning it should not be possible to manipulate the Data Protection Act in such a way as to negate their responsibilities for equalities monitoring.

Data Protection Principles & Low Numbers

Within Schedule 1 to the Data Protection Act, which lists the data protection principles, section 3 appears particularly relevant to the manner in which low numbers are recorded.

> 3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

The Information Commissioner's Office (ICO) provides guidance on the issue of adequate:-

"*When is an organisation holding insufficient personal data? Personal data should not be processed if it is insufficient for its intended purpose.*"

Data which does not differentiate between zero and 10 employees, making it impossible to determine if there are any potentially discriminatory practices, may not be considered adequate to the purposes for which the data is processed.

Anonymisation of Data

The ICO also provide guidance on the anonymisation of data:

"Anonymisation: managing data protection risk code of practice summary"
Within the code of practice there are several points relevant to the present report and which may require clarification from the ICO.

"*The risk of re-identification will differ according to the way the anonymised information is disclosed, shared or published:*

- *Publication to the world at large is more risky than limited access;*

- *Limited access allows the disclosure of 'richer data', but relies on robust governance arrangements*".

In the instance of small numbers the ICO guidance makes the following point.
"*Small numbers in small geographical areas present increased risk – but this does not mean that small numbers should be removed automatically. For example, removing numbers relating to five or ten individuals or fewer may be a reasonable rule of thumb for minimising risk of identification in a proactive disclosure scenario*".

This suggests that a) the circumstances in which the data is being provided should be considered; b) that the size of the organisation (risk of identification) may be of relevance; and c) that five may be a satisfactory number at which to set the bar.

A few organisations provided limited data, or in some extreme cases no data under the exemption under Section 38(1)(b) of FOISA (Personal data). We do not accept that these exemptions impact upon the present discussion.

For future analysis, it could also be possible for CRER to agree with concerned organisations that more detailed data could be provided in return for certain guarantees, e.g. the amalgamation of information from a number of smaller organisations and the destruction of the original data on publication of the final report.

CRER intend to discuss the issues raised above with the ICO and the EHRC.

APPENDICES

Appendix 1 – FOI Letter

Dear Sir/Madam,

The Coalition for Racial Equality and Rights (CRER) undertakes research on racial equality issues across a broad spectrum of Scottish life. As part of this work, we are currently undertaking a research project looking at race equality in public sector employment in Scotland.

To assist us in building a picture of race equality in public sector employment, we should be most obliged if you could please furnish us with the employment information requested below. The information requested reflects the previous Race Equality Duties laid down under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

Please consider this as a formal request for information in line with the provisions of the Freedom of Information (Scotland) Act 2002.

For each of the following areas (areas 1-7 below) covered by the previous Race Equality Duties, please provide information:

A) Covering two 12 month periods: the financial years 2010-11 and 2011-12. If it is not possible to access information relating to the financial year (for example because the information you hold relates to calendar or academic year), we would appreciate information for the last two available 12 month periods with the timescale clearly defined.

B) Disaggregated by ethnicity (ideally using categories specified in the 2011 Scottish population census). If it is not possible to fully break down the data by ethnicity, please divide the data into the following four categories: White British, White Other, Unknown/Not Specified (listed separately if possible), and All Other Categories (in the expectation that this final category would cover all of the non-white ethnicity categories)

The areas covered by the employment elements of the previous Race Equality Duties for which we request information are:

1) Staff in Post

2) Recruitment

    a) Applicants for employment

    b) Short listed applicants

    c) Applicants appointed

3) Training

    a) Applications for training courses

    b) Applicants whose training applications were approved

    c) Staff who have attended training courses

4) Promotion

    a) Applications for promoted posts

    b) Appointments to promoted posts

5) Disciplinary and grievance procedure

a) Individuals who were the subject of disciplinary procedures

b) Individuals who have initiated grievance procedures

6) Performance assessment procedures

a) The number of individuals undergoing performance assessment

b) The number of individuals benefiting from such procedures

c) The number of individuals suffering detriment from such procedures

7) Individuals who have ceased to be employed by the organisation

a) Total number of individuals ceasing employment

b) If possible, disaggregated by: disciplinary related dismissals; capability related dismissals; redundancy; and all other voluntary reasons.

For the above areas covering recruitment, training and promotion we seek the number of instances of each event; we therefore expect that individuals may be counted more than once (where this is not the case, please specify).

We would prefer to receive the information in electronic format (compatible with Microsoft Office software) by email to info@crer.org.uk.

Thank you in advance for your assistance in this matter. We will provide you with a copy of any future publication in which this data is used. Please feel free to contact us by email (info@crer.org.uk) if any further information is required.

Yours faithfully,
Jatin Haria
Executive Director
Coalition for Racial Equality and Rights

Appendix 2:

Acknowledgements

We would like to acknowledge the following organisations for providing data. As noted in the General Introduction, only a sample of the data was used for analyses of parameters other than staff numbers.

Further Education

Aberdeen College
Adam Smith College
Angus College
Anniesland College
Ayr College
Banff and Buchan College
Borders College
Carnegie College
Coatbridge College
Cumbernauld College
Dumfries and Galloway College
Dundee College
Edinburgh College
(Formerly Telford, Jewel & Esk and Stevenson. See below for Telford which did contribute to the analyses.)
Forth Valley College
James Watt College
John Wheatley College
Kilmarnock College
Langside College
Motherwell College
North Glasgow College
Royal Conservatoire of Scotland
Reid Kerr College
SRUC (Scotland's Rural University College)
Stow College
Telford College
West Lothian College

Higher Education

Glasgow Caledonian University
Heriot-Watt University
Napier University (Data not used due to unusual ethnicity categories)
Queen Margaret University
Robert Gordon University
University of Aberdeen
University of Abertay
University of Dundee
University of Edinburgh
University of the Highlands and Islands
University of St Andrews
University of Stirling
University of Strathclyde
University of the West of Scotland

Local Authorities

Aberdeenshire Council
Angus Council
Argyll & Bute Council
Dumfries and Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Falkirk Council
Fife Council
Glasgow City Council
Highland Council
Inverclyde Council
North Ayrshire Council
North Lanarkshire Council
Orkney Council
Perth & Kinross Council
Scottish Borders Council
Shetland Council
South Ayrshire Council
South Lanarkshire Council
Stirling Council
West Lothian Council
Western Isles Council

NHS

NHS Ayrshire & Arran
NHS Borders
NHS Dumfries and Galloway
NHS Education for Scotland
NHS Fife
NHS Grampian
NHS Greater Glasgow & Clyde
NHS Health Scotland
NHS Healthcare Improvement
NHS Highland
NHS Lanarkshire
NHS Lothian
NHS National Services
NHS National Waiting Times
NHS Orkney
NHS Scottish Ambulance Service
NHS Shetland
NHS State Hospitals Board
NHS Tayside
NHS 24

Emergency Services

Police
Central Scotland Police
Dumfries & Galloway Constabulary
Fife Constabulary
Grampian Police
Lothian and Borders Police
Northern Constabulary
Strathclyde Police
Tayside Police

Fire & Rescue
Fife Fire and Rescue Service
Grampian Fire and Rescue Service
Highland and Islands Fire and Rescue Service
Lothian and Borders Fire and Rescue Service
Tayside Fire and Rescue

Large Organisations

National Galleries of Scotland
National Library of Scotland
National Museums of Scotland
Scottish Court Service
Scottish Government
SEPA (Scottish Environment Protection Agency)
Scottish Legal Aid Board
Scottish Natural Heritage
Scottish Natural Heritage
Scottish Social Services Council
Scottish Qualifications Authority
Sport Scotland
Strathclyde Partnership for Transport
Visit Scotland

Small Organisations

Bord na Gaidhlig
Cairngorms National Park
Creative Scotland
Hitrans
Loch Lomond & Trossachs Nat Park
Mental Welfare Commission for Scotland
Nestrans
Scotland's Commissioner for Children and Young People
Scottish Criminal Cases Review Commission
Scottish Funding Council
SW Scotland Community Justice Authority
Sestran
Tactran

Refusals

Emergency Services

Central Scotland Fire and Rescue (claimed data protection)
Strathclyde Fire and Rescue (no ethnicity data)

Further Education

Cardonald College (demanded a fee)

Local Authorities

Aberdeen City Council (data not utilised, lack of clarity on ethnic categories)
Midlothian (data could not be utilised, low values provided as ≤10)
Renfrewshire Council (no response)
West Dunbartonshire (refused to provide data other than in percentages)

NHS

NHS Forth Valley (refused to provide data other than in percentages)

Small Organisations

Skills Development Scotland (data could not be utilised, low values provided as ≤10)
Care Inspectorate (would not provide staff numbers)

Conditional

Local Authorities

Edinburgh (data was initially provided in percentages, following a request for review some limited data were provided.)

Large Organisations

Scottish Water (refused to clarify aspects of their data prior to end of the project)

Copyright Information

Coalition for Racial Equality and Rights

Coalition for Racial Equality and Rights

78 Carlton Place

Glasgow

G5 9TH

0141 418 6530

mail@crer.org.uk

www.crer.org.uk

2014