



INVESTOR IN PEOPLE



What is Positive Action?

Positive Action can be described as, “measures to **overcome the effects of past discrimination** and **achieve equality of opportunity** for people from black or other minority ethnic groups”. Positive Action refers to measures that enable people from black or other minority ethnic groups to **compete on equal terms** for jobs, career development and training, in parts of the labour force where they are **under-represented**.

Positive Action measures are provided for under the **Race Relations Act 1976**. These include measures to encourage members of particular 'racial groups' (as the Act puts it) to apply for specific work where they are under-represented, or for the provision of training exclusively for particular racial groups (see below). Positive Action also includes other measures that represent **good practice** in terms of equal opportunities in employment and personnel practice in general. For example, the use of appropriate recruitment channels in advertising, 'ethnic' monitoring in recruitment and selection, or equal opportunities training for those involved in recruitment and selection or staff appraisal.

The Race Relations Act 1976 provides for positive action where particular racial groups are under-represented and to meet special needs.

Section 37 of the Act provides for **positive action training** and applies to those not employed by training bodies. It allows training bodies (including local authorities and employers) to carry out training for members of particular racial groups that are under-represented in particular occupations. It also allows training bodies to encourage members of particular racial groups to take advantage of opportunities for work where they are under-represented.

For the purpose of this sub-section, a racial group is under-represented in particular work where it appears to the training body that, at any time within the preceding twelve months, there were no persons of that group among those doing that work in Great Britain. Or, the proportion of the group amongst those doing that work in Great Britain was small in comparison with its proportion in the population of Great Britain.

Examples would include skills training for members of under-represented groups, work experience or pre-recruitment training for members of such groups. Under the 1976 Act training bodies other than the MSC and ITBS were required to be 'designated' by the Employment Department. The 1989 Employment Act removed this requirement.

Section 38 of the Act provides for positive action employment policy and applies to an employer's existing workforce. It allows an employer to carry out training for members of particular racial groups within the employer's existing workforce, where they are under-represented in relation to particular work in that establishment. It also allows employers to encourage members of particular racial groups, in the existing workforce, to take advantage of opportunities for work where they are under-represented.

A racial group is under-represented if at any time during the past twelve months there was either no one from that group doing the work in question. Or there were disproportionately few doing that work, compared with the group's proportion in the workforce, in that establishment or in the population from which the employer normally recruits. Examples would include **skills training** for employees in under-represented groups, **training in supervisory skills**, or a **management development programme** for under-represented groups.

Section 35 of the Act relates to '**special needs**'. It allows **access to facilities or services** to meet the needs of members of a particular racial group in terms of their education, training or welfare. Examples would include **language training** and **access courses**. The Employment Department (1990) interprets 'special' need to mean qualitatively different from the need of other groups. The CRE (1989) suggests 'special' would also include needs which are the same as, but proportionately different from those of the rest of the population.

Section 5 of the Act relates to '**genuine occupational qualification**'. It allows for the employment or training of members of a particular racial group where being a member of such a group is a 'genuine occupational qualification' for the job. It covers for example, the provision of services to individuals of a particular ethnic group, where a member of that group can most appropriately provide these services.

Positive Action should not be confused with 'positive discrimination' or 'reverse discrimination' allowed for under US legislation. The 1976 Act does not allow people to be **recruited** into particular jobs because of their racial group (the exception is genuine occupational qualification under section 5 of the 1976 Act).
Discrimination at the point of selection is not allowed.

Further explanation relating to Positive Action in training and employment can be obtained from the Commission for Racial Equality.

The Race Relations (Amendment) Act 2000

The Race Relations (Amendment) Act 2000 introduces the first major changes to the 1976 Race Relations Act and gives **public authorities a new statutory duty to promote racial equality**.

Whereas the 1976 act was mainly concerned with making discrimination unlawful, the aim of the new duty, says the CRE, is "**to prevent discrimination happening in the first place, and to ensure that public bodies play an active role in creating a more equal society**".

The duty applies to most, but not all, public authorities including local authorities; central government departments; schools, colleges and universities; police; criminal justice agencies; NHS trusts; and non-departmental bodies, such as the arts council. Some are bound by what is known as the **general duty**, some by the general and employment duties, and others by these plus specific duties set by the home secretary.

The general duty, which came into force in April 2001, "expects public authorities to take the lead in promoting equality of opportunity and good race relations, and preventing unlawful discrimination". The specific duties came into effect in December 2001, but the Commission for Racial Equalities powers to enforce them begin on 31 May 2002. This is also the deadline by which authorities must have in place their **race equality schemes**, a public document that explains how they will meet the duties and summarises their approach to racial equality.

The act gives authorities a responsibility not just to identify that they have got a problem, but, to say what they are going to do about it.

Further explanation relating to the Race Relations Amendment Act 2000 can be obtained from the Commission for Racial Equality or Commission for Equality and Human Rights.

