



## **PainSmith Solicitors Legal Update**

24 October 2006

### **Code of Practice on Racial Equality in Housing**

The Code of Practice on Racial Equality in Housing was brought into force on 1 October 2006 by The Race Relations Code of Practice (Housing) (Appointed Day) Order 2006 (Si 2006/2239). The Code replaces two previous codes of practice; the Code of Practice in Rented Housing and the Code of Practice in Non-Rented (Owner Occupied) Housing. There are three separate Codes for England, Wales and Scotland although all three are very similar. Northern Ireland has its own independent racial equality legislation and is therefore not covered by the Codes. The Codes apply to anyone involved in the provision of Housing from Local Authorities to small private landlords.

The Codes represent 'best practice' and, while they are not an authoritative statement on the law, it has been approved by Parliament and so must be taken into account by the Courts when deciding cases based on racial equality issues. It will therefore assist in the defence of anyone accused of racial discrimination to show that they have followed the recommendations and procedures laid out by the Codes. The level of compliance required should be viewed proportionally. A private landlord letting one property will not be expected to demonstrate adherence to all the procedures in the Codes in the same manner as a large housing organisation might be but they will be expected to demonstrate that they have endeavoured to follow the spirit and intent of the Codes.

It should not be necessary to lay out what constitutes racial discrimination. However, it should be remembered that any form of discrimination on the basis of race or nationality is a breach of the Race Relations Act, whether direct (refusal of Australian tenants) or indirect (failing to supply details of properties to a white tenant as they are in an 'Asian area'). This will also apply to the provision of services which must be provided equally across the community. Racial harassment or abuse is also a breach of the RRA. It would also be discriminatory to impose different letting terms (increased deposit, for example) on the grounds of race or nationality.

While the Codes are primarily aimed at social landlords it would be useful for agents to look through the areas of good practice laid out in Chapter 3 to ensure that their procedures are compliant. In general terms, as long as information is provided equally to all enquirers and letting decisions are not made with racial issues in mind there should be no problem.

The three Codes are published by the Commission for Racial Equality and are available from their website ([www.cre.gov.uk](http://www.cre.gov.uk)).

*Dr David Smith is a trainee solicitor with PainSmith Solicitors, a niche practice specialising in residential landlord and tenant law. He can be contacted on 01420 565310 or by email at [david@painsmith.co.uk](mailto:david@painsmith.co.uk). If you wish to subscribe to the free legal updates service then you should email [update@painsmith.co.uk](mailto:update@painsmith.co.uk) with the phrase “subscribe updates” in the subject of the email.*

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