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COUNCIL FOR RACIAL EQUALITY

Kate Hepher
Discrimination Law Review Team
Women and Equality Unit
Department for Communities and Local Government
Ashdown House
123 Victoria Street
London
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Your Ref:

Our Ref:

Date: 21 August 2007

Dear Kate

Re: Proposals for a Single Equality Bill for Great Britain

This letter sets out the East of England Race Equality Council Partnership's response to the above Green paper. This partnership listed below is made up of race equality councils and organisations from every county and unitary area of the region.

As a group we fully support a bill that introduces a consistent approach to the elimination of discrimination in this new era of a single equality agenda. We are concerned though at the consultation timescale, that only just meets the Compact requirements, despite taking place during the traditional holiday period, meaning full consultation is seriously restricted. Our partnership therefore asks that the consultation period is extended.

We have reviewed the CRE's response to the Green Paper, and looked at the responses from other key organisations such as the Disability Rights Commission, Equal Opportunity Commission and the Equality and Diversity Forum. We support the key concerns raised by the CRE as follows:

- Nothing on law enforcement and racism
- Limited evidence to support the proposed changes
- Regression of Equality Duties
- Lack of Access to Justice
- Little enforcement against Institutional Discrimination
- Insufficient clarity and therefore action against Multiple Discrimination

We are encouraged by the clear intentions set out in the proposal to bring together the legal tests under one stream and to end the confusion and allow the single equalities commission to operate effectively. We particularly welcome the strong 'balancing measures' within the bill that will essentially replace positive action in a legal framework. We feel too that some emphasis should be given to the fact that strong equality legislation leads to greater access to the employment market which in turn is good for the economy.

There are however some real concerns with the proposals set out in the Green paper, particularly at the erosion of the Race Equality duty, both specific and general, within the *Race Relations (Amendment) Act 2000*. This is particularly detrimental to local race equality work as it was this amendment that introduced the key aim of eliminating 'institutional racism' as identified in the Macpherson Inquiry into the death of Stephen Lawrence Report 1999.

Macpherson's findings were that institutional racism existed and that a law needed to be introduced to deal with it. It appears from the DLR that there is a view that the current duties are burdensome and unwieldy, yet this is not supported by any evidence, indeed the Disability and Gender Equality Duties have only recently been introduced.

The reality is that in many of our districts and counties, where racism continues to be viewed as the invisible problem, lack of funded advocacy and access to justice means that reliance on the positive duties are often all that is available to local race equality champions to influence and effect positive change. The problem is often worse in rural areas where authorities feel low numbers of Black and Minority Ethnic (BME) people mean that they do not have to monitor access to or satisfaction with services or promote action to eliminate unlawful discrimination and racism.

Allowing bodies to set a number of 'equality' objectives instead of a general duty means too that justice will not be consistent across the country and equality will not be embedded and mainstreamed and perhaps finance will dictate priorities rather than community needs, allowing discrimination to go unnoticed and unchallenged. There is little to challenge any position where equalities action is impeded because the public sector view of equality priorities are very different from the priorities defined by those who experience discrimination or advise on it.

The Race Equality Schemes, and more importantly their action plans went some way to engender confidence and trust by the community in their local authorities. Additionally the community were also able to identify issues for inclusion in such action plans that really empowered them to influence and change services. Again this is particularly critical in rural communities, where services may not routinely be available and people have to advocate for them.

In many areas, particularly rural ones, positive action is considered 'militant' and is rare. Therefore strengthening of the Balancing Measures to reflect EU Law Article 5 is critical.

As the DRC points out 'Race and sex discrimination laws, have now been in force for 30 years' - yet their limitations are clear. We know that there are entrenched patterns of disadvantage in many areas of social and civic life. This is evident in the pay gap between men and women; educational achievement and employment patterns between ethnic groups; and similarly in housing conditions, health and other matters. Strengthening of the public duties and indeed the extension of them to the private and Voluntary Sector is the only way to truly embed diversity, dignity and equality in our society.

We also fear the lack of access to justice by the limited reference to enforcement within the bill. We agree that encouraging good practice is an important step in achieving equality. However it is equally important to clearly mark the boundary where enforcement is necessary. This is required to ensure compliance where hearts and minds are unwilling to change. One cannot rely on spreading good practice or embracing principles to achieve equality unless the basis for it is consistent. Understanding, goodwill and ambition to achieve equality by decision makers is important, as it is within the decision making structure itself. We know that alone though it is not enough and this has clearly been highlighted in the Macpherson Report which identified institutional racism. We feel access to justice is an important right that needs to be protected. We list below some instances where current legal structures have helped address inequality and discrimination in a productive way.

One race equality council/organisation (REC/O) has an individual who is reluctant to progress their case to tribunal, which is often the case. Due to the questionnaire procedure however they have highlighted clear non compliance with the RRA2000 and the public sector partner has agreed to work with the individual and the REC/O to effect real change in its policies and practices as they affect BME staff.

Another REC/O is successfully challenging and working with a statutory sector under the RRA2000 partner in it's over reliance on the stigma associated with urban music to disadvantage and stop 'black' music events/festivals. Another is working with a local authority and the RRA2000 to prevent eviction of Gypsies and Travellers from a 'tolerated' site.

Research commissioned in the region by the Housing Corporation, GO-East, the East of England Regional Assembly, the East of England Development Agency and the National Housing Federation East showed that housing providers were developing BME housing strategies with an extremely patchy evidence base despite a statutory and regulatory framework that required robust ethnic monitoring processes. It was perhaps only the existence of this framework that made providers take up opportunities, following the research, that encouraged them to develop their monitoring and evaluation methodology. It has meant not only significant improvements in terms of meeting BME housing needs (including Gypsy and Traveller accommodation issues) but also value in enabling providers to target their resources most effectively.

Another key area is in the procurement and commissioning of services, where the duties require race equality to be embedded throughout the process. A recent report showed that 90% of contractors had no equal opportunities policy and the public sector found it difficult to monitor private contractors' compliance with equalities duties. Without such a duty the unequal status quo will remain unchallenged. At a time when more services are being outsourced by the statutory sector to voluntary and private sector partners a greater focus on procurement and commissioning of services in terms of race equality is critical. It is disappointing that the DLR have not taken this on board.

We agree that at Employment Tribunal (ET) the law needs to allow the ET judgement to include recommendations for employers that are binding, as this will ensure post ET action to address discriminatory practices. We reiterate our concerns too at the current lack of advice and justice for people who face discrimination and the review has to recognise and amend this. Bringing private sector law firms under the positive race equality duties could mean a fairer approach to taking on cases within our current law structure. We also feel it is critical to allow representative actions and own name proceedings, which will improve access to justice.

This letter does not comment on the proposed statutory exceptions save that it is important that bodies omitted from previous race legislation such as Parish and Town Councils need to be brought under the new and emerging legislation.

I sincerely hope that your team will take on board these very real fears from a group of organisations who deal with these issues daily. The whole access to justice agenda will be severely diminished by the proposals greatly affecting those who need access most. Britain has been the instigator of pioneering work in Europe in terms of equalities – we should not lose this invaluable work in new legislation.

I have listed those involved in the partnership (members and Associate members) below for your information.

Yours sincerely



Jane Basham
Director

Bedford Race Equality Council – Wendy Anderson- Walsh
Cambridge Ethnic Community Forum – Sylvia Lingwood
Essex Race Equality Council – Clive Mardner (for Essex and Southend)
Hertfordshire Black and Minority Ethnic Partnership – Eliud Matindi
Ipswich and Suffolk Council for Racial Equality – Jane Basham
Luton Equality Association- Pauline Stepney
MENTER (regional BME network for the East of England) – Ila Chandavarka
Norwich and Norfolk Race Equality Council – Anne Matin
Peterborough Race Equality Council – Maheeb Ladha
Regional Commission for Racial Equality Team – James Doubleday, Emma Siami, Sean Risdale
Thurrock Racial Unit Support Group – Ruth Juett