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FILE TITLE: RACE RELATIONS		SERIES
		HOME AFFAIRS
		PART: 4
PART BEGINS: 16 June 1999	PART ENDS: 24 AUGUST 1999	CAB ONE:

**LABOUR
ADMINISTRATION**

Part closed

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PART

CLOSED

DATE CLOSED	24 AUGUST 1999
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Series : HOME AFFAIRS
 File Title : RACE RELATIONS
 Part : 4

Date	From	To	Subject	Class	Secret
16/06/1999	HS	DPM	Race relations (amendments] bill	C	0
16/06/1999	SS/DoH	MWP	Better Regulation Task Force Review of Anti-Discrimination Legislati	R	0
18/06/1999	CST	CDL	BRTF- Anti - discrimination legislation Governments formal response	C	0
28/06/1999	PU	PM	Race relations (amendments bill)	C	0
28/06/1999	SS/NIO	HS	Race relations (amendments bill)	C	0
28/06/1999	SO	HS	Race relations (amendments bill)	C	0
29/06/1999	SS/CMS	HS	Race relations (amendment) bill	C	0
29/06/1999	SS/DTI	HS	Race Relations (Amendment) Bill	R	0
30/06/1999	AG	HS	Race Relations (Amendment) Bill	R	0
30/06/1999		HS	from M/women: Race Relations (Amendment) Bill	C	0
30/06/1999	SS/DSS	HS	Race relations (amendment) bill	U	0
01/07/1999	CDL	DPM	Better regulation task force review of anti-discrimination legislation -	U	0
01/07/1999	SS/DfEE	HS	Race Relations (Amendment) Bill	R	0
02/07/1999	HS	SS/DTI	Race Relations (Amendment) Bill	R	0
05/07/1999	MS/DETR	DPM	Race Relations (Amendment) Bill	U	0
05/07/1999	SS/DoH	HS	Race Relations (Amendment) Bill	U	0
07/07/1999	HS	DPM	Response to the commission for racial equality's third review of the r	U	0
09/07/1999	SS/DoH	HS	Response to the Commission for Race Equality's Third Review of the	R	0
09/07/1999	SS/DfEE	HS	Response to the Commission for Race Equality's Third Review of the	U	0
12/07/1999	LC	DPM	Race Relations (Amendment) Bill	U	0
12/07/1999	CDL	DPM	Response to the Commission for Racial Equality's Third Review of th	U	0
12/07/1999	MS/DETR	DPM	The Government's Response to the Commission for Racial Equality's	U	0
12/07/1999	LPO	HO	Response to the Commission for Racial Equality's Third Review of th	U	0
12/07/1999	AG	HS	Response to the Commission for Racial Equality's Third Review of th	U	0
12/07/1999	LC	DPM	Response to the Commission for Racial Equality's Third Review of th	U	0
12/07/1999	Cab Off		Government Response to CRE Review of the Race Relations Act	U	0
13/07/1999	SS/CMS	HS	Response to the Commission for Racial Equality's Third Review of th	U	0
13/07/1999	Cab Off	HO	Announcements on anti-discrimination	U	0
13/07/1999	HA/PS	HO	Race Relations (Amendment) Bill	R	0
15/07/1999	DPM	HS	Response to the commission for racial equalitys (CRE) third review o	C	0
15/07/1999	Cab Off	DETR	Response to the commission for racial equalitys third review of the ra	C	0
20/07/1999	HO	PA/PS	Race Relations Act (Amendment) Bill	R	0
20/07/1999	HS	DPM	Race Relations Act (Amendment) Bill	R	0
23/07/1999	HS	PM	race equality employment targets for ethnic minority staff	C	0
23/07/1999	HA/PS	PM	Race relations act (amendment) bill	U	0
23/07/1999	SS/CMS	HS	Race Relations Act (Amendment) Bill	U	0
02/08/1999	Ch.Staff	PU	Commission on the future of multi-ethnic Britain	U	0
03/08/1999	DPM	HS	Race relations (amendments) bill	U	0
13/08/1999	DCMS	diary sec	letter re invite for pm to attend the french and spanish launches of th	C	0
19/08/1999	SS/WO	PM	Global Cultural Diversity Congress 2000 in Cardiff	U	0
24/08/1999	HO	HA/PS	List of religious festivals	U	0

From: THE PRIVATE SECRETARY



David North Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

~~Top-Dndol~~
cc JFH
PU
Press
SCU

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

24 AUG 1999

cc KH, Matthew J
~~20%~~
(f)

Dear David,

Some time ago, Claire Hawley asked me for a list of religious festivals, so as to help anticipate invitations and requests from religious organisations, particularly ethnic minority religious organisations.

The Race Equality Unit of the Home Office has produced such a list, a copy of which I enclose. The Unit point out that the dates are accurate for festivals up to and including 31 December; after that date, some of the dates are subject to verification from the new "Shap Calendar" of religious festivals, due to be issued later this month. A revised list, based on this, will be sent to you as soon as possible.

We will, of course, continue to provide advice on any invitations or requests for messages, as necessary, based on our knowledge of the organisation or person making the request and any other relevant background knowledge or development.

*Ngern
Clare*

CLARE SUMNER

RELIGIOUS FESTIVALS FROM 1 JUNE 1999 TO 31 DECEMBER 1999

This list is based on the Shap calendar and lists the festivals in chronological order. The table is divided into separate sections, one for each religion. It has been produced in response to a request from the Prime Minister's office to assist them in sending congratulatory messages to the relevant community. Where known, the dates of festivals after 31 December are given.

The dates of some festivals vary from year to year (for example, because the festival is lunar) and we will not know these until we receive the new edition of the SHAP calendar, in August 1999. All dates for festivals after 31 December will be included in an update to be prepared after the new Shap Calendar arrives.

BAHA'I FAITH

Extracts from SHAP calendar of religious festivals 1998-99

Date	Baha'i festivals	Remarks
20 October	Anniversary of the Birth of the Bab	
12 November	Anniversary of the Birth of Baha'u'llah	
21 March 2000	Naw-Ruz	
21 April - 2 May	Ridvan	
23 May	Anniversary of the declaration of the Bab	
29 May	Anniversary of the Ascension of Baha'u'llah	
9 July	Anniversary of the Martyrdom of the Bab	

Baha'i festivals

MOST IMPORTANT FESTIVAL: RIDVAN (21 APRIL-2 MAY 2000)

20 October 1999

Anniversary of the Birth of the Bab (the "Gate"): The Bab was born in Shiraz, Persia, in 1819. He called people to religious renewal and to await the coming of a new messenger from God. Baha'is believe that this latter figure was Baha'u'llah (see below).

12 November 1999

Anniversary of the birth of Baha'u'llah: Founder of the Baha'i faith who was born, eldest son of a Persian nobleman, in Tehran, Persia, in 1817

21 March 2000

Naw-Ruz: New Year's Day and the end of the 19-day fast that concludes the old year.

21 April - 2 May 2000

Ridvan: The most important Baha'i festival. It was in these 12 days that Baha'u'llah declared himself as the Promised One prophesied by the Bab. The festival is named after the garden outside Baghdad in which he was staying. The first, ninth and twelfth days are especially significant and celebrated as holy days when no work is done. It is during this period that Baha'is elect their local, national and international governing bodies.

29 May 2000

Anniversary of the declaration of the Bab: The Bab heralded the arrival of the Baha'u'llah and was the co-founder of the Baha'i faith. He first declared his mission in Persia in 1844. He inaugurated the Baha'i calendar which numbers itself from the year of this declaration.

29 May 2000

Anniversary of the Ascension of Baha'u'llah: Commemorates the death of Baha'u'llah, at Bahji, near Acre, in 1892. His Shrine is the place towards which all Baha'is face when praying.

9 July 2000

Anniversary of the martyrdom of the Bab: The Bab was executed by firing squad in Tabriz, Persia, at noon in 1850. The Bab's death is commemorated at noon with readings and prayers from Baha'i Scriptures.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

The oneness of God; the unity of all faiths; unification of humankind is inevitable; the harmony of all people; universal education; obedience to government. Prejudice of any kind is wrong and men and women should be treated equally. Scientific discovery is part of the process of discovering the ultimate truth and is not incompatible with faith. Cultural diversity is welcomed in the context of seeking a world government which would aim to eliminate the extremes of wealth or poverty. Places of worship are usually set up in hospitals or orphanages and there are no formal initiation ceremonies, ministers, or sacraments. Adherents are required to pray every day, to abstain from drugs and alcohol, to play no part in politics, gossip or back-stabbing and to observe the festivals and anniversaries outlined above. Marriage is monogamous.

BUDDHISM

Date	Buddhist festivals	Remarks
27 July	Asala - Dhammacakka Day - Turning of the Wheel of Teaching	
October (varies)	Kathina Day	
8 December	Bodhi Day	
18 January 2000	Sainran Memorial Day	
15 February	Parinirvana	
7 March	Honen Memorial Day	
29 May	Vaisakha Puja/Wesak	

Buddhist festivals

MOST IMPORTANT FESTIVAL: VAISAKHA PUJA/WESAK (29 MAY 2000)

27 July

Asala - Dhammacakka Day - Turning of the Wheel of Teaching: Theravada celebration of the First Proclamation by Gautama to five ascetics in the Deer Park near Benares. This taught of the Middle Way, the Noble Eightfold Path and the Four Noble Truths.

October (varies)

Kathina Day: At the end of the 3 month Rains Retreat of monks in Theravada Buddhism, the lay people offer new Kathina robes. The date varies according to the rainy season in different countries.

8 December

Bodhi Day: Gautama's attainment of Enlightenment under the Bodhi Tree in Bodhgaya, North India.

18 January 2000

Sainran Memorial Day: Sainran is the founder of Todo Shin-shu, a school of Pure Land Buddhism

15 February 2000

Parinirvana: Mahayanists mark the final passing from this world of Gautama Buddha at Kushinagara, India, aged 80. Pure Land Buddhists call this Nirvana Day.

7 March 2000

Honen Memorial Day: Honen is the founder of Jodi Shin, a school of Pure Land Buddhism.

29 May 2000

Vaisakha Puja/Wesak: The day when Theravadins celebrate the birth, enlightenment and final passing away of Gautama Buddha. People decorate their houses with lanterns and garlands and some release captive birds as a sign of compassion and act of merit. There is particular emphasis on enlightenment. Lay people meet at monasteries. In Britain this is sometimes called Bodhi Day. This is the biggest Buddhist festival.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Originating in India about 2,500 years ago and based on the teachings of Buddha (Siddharta Gautama), Buddhism is based on the Four Noble Truths. The last of these affirms that there is a Path of deliverance from suffering. Good or evil is rewarded/punished, under the law of karma, either in this life or in a series of rebirths. Obedience to the right Path, coupled with understanding this concept, can lead to the chain of karma being broken. The path is through sila (morality), samadhi (meditation) and panna (wisdom), set out in the Eightfold Path. The goal is nirvana, the blowing out of the fires of desire and the absorption of the self into the infinite. There are two great traditions: Theravada keeps to the older teachings which limited

the possibility of salvation to the few who accept the severe discipline and effort needed to achieve it; Mahayana is more liberal, teaching that salvation is possible for all. It introduced the doctrine of bodhisattva (personal saviour). Other schools have evolved, such as Zen, Chan, Lamaism, Tendai, Nichiren, Pure Land and Soka Gakkai. The main scripture is the tipitaka (Pali Canon) but Mahayana Buddhists acknowledge many other texts as authoritative.

CHINESE FESTIVALS

Date	Chinese festivals	Remarks
17 July	Chung Yuan	not confirmed
16 February 2000	Yuan Tan	
2 March	Teng Chieh	1999 date. Lunar
4 April	Ch'ing Ming/Festival of Pure Brightness	1999 date
18 June	Dragon Boat Festival	1999 date

MOST IMPORTANT FESTIVAL: CHINESE NEW YEAR (FEBRUARY 2000)

There is no "Chinese faith"; there are a large number of religious faiths in China, such as Buddhism, Taoism and Confucianism, as well as Christianity, Islam and traditional folk beliefs. The festival shown is in the SHAP calendar.

17 July 1999

Chung Yuan: A Chinese Buddhist and ancestral festival, the "Festival of Hungry Ghosts". Paper objects for use in the spirit world are made to aid spirits with no resting place or descendants. Large paper boats are made and burnt at temples to help spirits across the sea of torment to Nirvana.

February 2000

Yuan Tan (Chinese New Year): The most important event in the Chinese calendar, colourfully celebrated with fireworks, dances, gifts, flowers and sweets. Gold, symbolising prosperity and red, symbolising luck, are predominant. All accounts and debts should be settled before New Year. Can last 3 or more days.

February/March 2000

Teng Chieh: Lantern festival of the first full moon of the year. People string out lanterns as decoration.

March/April 2000

Ch'ing Ming/Festival of Pure Brightness: The first occasion in the new year when family graves are visited. They are cleaned and swept before offerings are made to the spirits. Many have picnics at the grave to share with their ancestors. Families make special efforts to be together and return to the family graveyard.

June 2000

Dragon Boat Festival: Originally a celebration of the suicide by drowning of Ch'u Yuan, a poet and statesman circa 279 BCE, this is most notable for the great dragon boat races between slim rowing boats, up to 100 feet long, shaped like a dragon. People go to rivers for picnics and on-boat celebrations.

CHRISTIANITY

Extracts from SHAP calendar of religious festivals 1998-99

Date	Christian festivals	Remarks
3 June	Corpus Christi (RC)/Day of Thanksgiving for the Institution of Holy Communion (Anglican)	
6 August	Transfiguration	
15 August	Assumption of the Blessed Virgin Mary	
Sept/Oct	Harvest Festival	
1 November	All Saints' Day	
2 November	All Souls' Day	
28 November	Advent Sunday	
30 November	St Andrew's Day	
8 December	Immaculate Conception of the Blessed Virgin Mary	mainly RC
24 December	Christmas Eve	
25 December	Christmas Day	
8 March 2000	Ash Wednesday	
16 April	Palm Sunday	
20 April	Holy Thursday (Maundy Thursday)	
21 April	Good Friday	
22-23 April	Easter Vigil/Easter Day	
1 June	Ascension Day	
11 June	Pentecost	
25 June	Corpus Christi/Day of Thanksgiving for the Institution of Holy Communion	

Christian festivals

MOST IMPORTANT FESTIVAL: EASTER (23 APRIL 2000)

6 August 1999

Transfiguration: Jesus led three of his disciples, Peter, James and John, up a mountain, where they saw him "transfigured" (shining bright white), together with Moses and Elijah. They heard a voice saying, "This is my own dear Son with whom I am pleased - listen to him." The disciples, overcome with awe, suggest setting up shelters for Jesus, Moses and Elijah. The event is seen as confirming the divine nature of Jesus.

15 August 1999

Assumption of the Blessed Virgin Mary: The belief that Mary was taken up, body and soul, into heaven, instituted by the Pope in 1951. In many Catholic countries, the festival is marked with processions and fetes. Orthodox Christians keep this day as the **Dormition** ("falling asleep") of the Blessed Virgin Mary.

September/October

Harvest festival: Celebration of the harvest and thanking God for his goodness. Food is brought to church (often for distribution to the poor). Modern emphasis is on spiritual fruits and the harvesting of souls for the kingdom of God.

10-17 October 1999

Week of prayer for world peace: This is not specifically a Christian festival. Representatives from several faiths meet to work out prayers for world peace, based on one another's religious traditions.

1 November 1999

All Saints' Day: Celebrates the work and witness not only of the "recognised" saints but also of all people who contribute to the work of the Church. Many regard it as a celebration of the missionary work of all Christians, whatever their situation.

2 November 1999

All Soul's Day: Christians remember and celebrate the work of their predecessors, who are regarded as still being part of the kingdom of God.

28 November 1999

Advent Sunday: The start of the Christian year. Christians prepare for Christmas by lighting the first of four candles (one for each Sunday in Advent) in the Advent wreath, which symbolises life (in the greenery), service (the purple colour of the candles, reminiscent of the purple attire of Jewish Temple attendants) and the light of Christ.

30 November 1999

St Andrew's Day: The patron saint of Scotland, Andrew was an apostle and brother of John. Originally a fisherman, his mission was to be "a fisher of men".

8 December 1999

Immaculate Conception of the Virgin Mary: The mainly Catholic belief that the Virgin Mary was born free of original sin, enabling her to remain forever sinless both before and after giving birth to Jesus.

24 - 25 December 1999

Christmas Eve/ Christmas Day: On Christmas Eve, carols are sung and, at Midnight, Mass or Holy Communion services mark the start of the celebration of Christmas, the birth of Christ. This is a major festival, marking the birth of God as man in Jesus. Many churches set up nativity scenes and families decorate their homes. Cards and presents are given, symbolising the gift from God of his Son.

March 2000

Ash Wednesday: Marks the beginning of Lent (Spring). During Lent, Christians prepare for the celebration of Easter, by fasting and praying. It is a time for reflection on one's life and whether any changes need to be made. On Ash Wednesday itself, palm leaves from the previous Palm Sunday are burnt and the ashes imposed on the forehead of the faithful, as a sign of repentance and commitment to change for the better.

16 April 2000

Palm Sunday marks the triumphal entry of Jesus into Jerusalem, when palms were strewn before the ass upon which he rode. Many churches hold processions, re-enacting this, continuing the service in church. Palm Sunday is the first day of Holy Week, when the events leading to the betrayal and death of Jesus are reflected upon and prayed about, often in daily house meetings.

20 April 2000

Holy Thursday (Maundy Thursday): On the night before he died, (marked on Good Friday), Jesus ate the Last Supper with his disciples. He gave them bread and wine as signs of giving his body and blood for their sake and told them to continue to do this after his death. Special Masses or services of Holy Communion are held. Some churches re-enact Jesus washing the feet of his disciples, which symbolises the service of others, regardless of their faith.

21 April 2000

Good Friday: The crucifixion is remembered on this day, when special parades are held, re-enacting Jesus' walk to Calvary, the place where he died on the cross. Many churches hold special services, some lasting three hours, the time that Jesus was on the cross. In Catholic churches, the cross is venerated, emphasising the importance of the cross as a symbol of Christianity.

22 April/23 April 2000

Holy Saturday (Easter Vigil)/Easter Day: Easter celebrates the resurrection of Jesus and the hope of eternal life with him. Death becomes a transition to new and eternal life. Easter is the most important Christian festival; Christians believe that if there were no resurrection, their faith in Jesus would be meaningless. Some churches hold special services, starting at dusk on the Vigil, commemorating the entire Creation story, the story of Abraham and of Moses leading the Jewish people out of slavery, as well as the life, death and resurrection of Jesus. For many churches, however, the main celebration is held on the Sunday morning.

1 June 2000

Ascension Day: 40 days after Easter, Jesus took leave of his disciples for the last time, ascending into heaven as they looked on. Some churches mark the day with a special service.

11 June 2000

Pentecost: The coming of the Holy Spirit, on the Jewish festival after which this feast is named. The Spirit brought the disciples a variety of gifts, enabling all those present to understand each other's languages. Christians believe that the Spirit continues to give everyone special gifts.

25 June 2000

Corpus Christi/Day of Thanksgiving for the Institution of Holy Communion: Celebrates the institution of Holy Communion at the Last Supper.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Christianity developed out of Judaism. Jesus himself was a Jew, as were his disciples, who, after his death and resurrection, came to believe that he was the Messiah, prophesied in the Old Testament, who would save God's chosen people (the Jews). Christians believe that Jesus came to save all people. Christianity asserts that there is only one God but that there are three persons (Father, Son and Holy Spirit) in that oneness, the Trinity. Jesus is regarded as wholly God and wholly human, by virtue of his birth to Mary, while the Holy Spirit is thought to be the "breath" of God, that inspires people to follow the Christian faith. The Bible is thought to have been written under the influence of the Holy Spirit. Jesus is the means of forgiveness of all sin. Christians believe that he will return at the end of time to judge between the good and the bad, bringing the former into the Kingdom of God and consigning the bad to hell. The numerous denominations of Christianity reflect differences of emphasis, doctrine or practice.

HINDUISM

Extracts from SHAP calendar of religious festivals 1998-99

Date	Hindu festivals	Remarks
14 July 1999	Ratha Yatra - chariot journey	
26 August	Raksha Bandhan	
28 August	Ganesh-Chaturchi	
3 September	Janamashtami/Krishna Jayanti	
10-18 September	Navaratri/Durga Puja/Dusserah	
5-7 November	Diwali/Deepavali	Hindu/Sikh
January 2000	Makar Sankrant	12, 13 or 14 Jan
January	Vasanta Panchami/Saraswati Puja	
February	Mahashivratri	
February/March	Holi	
February/March	Birthday of Shri Ramakrishna	
March	Varsha-Pratipada	
March	Rama Navami	

Hindu festivals

MOST IMPORTANT FESTIVAL: (probably) DIVALI (DEEPAVALI) (5-7 NOVEMBER 1999)

14 July 1999

Ratha Yatra (chariot journey): Kept most notably at Puri in Orissa, where processions of thousands push huge wagons (rathas) with images of Krishna, under the name of Jagannath (Lord of the Universe) attended by his brother and sister. It is celebrated in Britain (mainly by the International Society for Krishna Consciousness) with a procession through London on a Sunday.

26 August 1999

Raksha Bandhan: A festival concerning brotherly protection, when sisters tie (bandhan) coloured thread amulets on to their brothers' wrists and give them an Indian sweet. The amulet symbolises protection (raksha) from evil. They are given gifts (usually money) in return. Cousins are included as brothers and sisters.

28 August 1999 (approx)

Ganesh-Chaturthi: Birthday of Ganesha, the elephant-headed deity who removes obstacles and is worshipped at the beginning of all new projects such as getting married, taking exams or moving house. Especially observed by Maharashtrians.

3 September 1999

Janamashtami/Krishna Jayanti: Birthday of Krishna, a very popular avatar or incarnation of Vishnu, so this festival celebrated widely. Many fast till midnight, the time of Krishna's birth. Those unable to fast take fruit and milk. Krishna is welcomed in the temples with singing, dancing and sweets. In some homes and in temples an image of the new-born Krishna is put in a cradle and special sweets (panjiri - given to women after childbirth) are offered and distributed.

10 - 18 September 1999

Navaratri/Durga Puja/Dusserah: Known by different names but celebrated across India, Navaratri means "nine nights"- the length of the festival. The last 3 days are the most important. In North India the performance of the Ram lila during Durga Puja commemorates Rama's victory over Ravana, the demon king of Sri Lanka. In Northern India and Bengal, in particular, the goddess Durga is worshipped on the 8th day. Some Punjabis mark this day by giving food and other items to young girls.

5 - 7 November 1999

Diwali (Deepavali): In Hinduism, a New Year Festival lasting 1-5 days, during which lights are hung out and fireworks exploded. A festival of light, celebrated on the darkest night of the lunar month. The festival is generally associated with Lakshmi, goddess of wealth and prosperity or with the victorious return of Rama and Sita to the kingdom of Ayodha after the exile. Diwali marks the beginning of the financial year.

January 2000

Makar Sankrant: Called Lohri in Punjab and Pongal in Tamil Nadu, this is a day for almsgiving and patching up quarrels. Tamils eat a rice dish, Pongal, while in the Punjab, the festival is held following the birth of a son. People light a fire and eat peanuts and sesame sweets around it, as well as rice with sugar, pancakes and halva. The traditional meal is cornmeal chapatis and mustard leaves.

January 2000

Vasanta Panchami/Saraswati Puja: Widely celebrated in North India, this marks the beginning of Spring. It is usually linked with Saraswati, the goddess of learning and the arts. The associated colour is yellow.

February 2000

Mahashivratri (Great Shiva Night): Every night of the new moon is devoted to Shiva but this is particularly important. Shiva is said to dance from creation to destruction. Many Hindus fast, while all-night prayers focus on Shiva, his shrines and statues. Milk is poured on his symbol, the lingam.

February/March 2000

Holi: A Spring festival lasting 1-5 days, when people light bonfires and throw coloured powder and dyes over one another. Holi has its origins in fertility rites. The coloured dyes are linked with Krishna and his antics with the gopis or milkmaids. There is also the story of Prahlada and Holika. Prahlada defied his father, King Hiranyakashipu, by worshipping Vishnu. His aunt Holika, supposedly immune to fire, held Prahlada while she sat on a bonfire but he survived.

February/March 2000

Birthday of Shri Ramakrishna: A teacher and mystic, born in 1833, he founded the Ramakrishna Vedanta movement. His disciple, Swami Vivekananda, formalised his teachings into a philosophical structure.

March 2000

Varsha-Pratipada: This is the first day of **Chaitra**, the first month of the Hindu lunar year. It is seen as an auspicious day for starting new endeavours.

March 2000

Rama Navami: The birthday of Rama, the seventh avatar of Vishnu, celebrated at noon by arati before a picture of Rama swinging in a cradle.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

A tradition developed over several thousand years, Hinduism has no particular founder, no prophets, creed or institutional structure. Emphasises the right way of living (dharma) and embraces diverse beliefs and practices. There are differences in the deities worshipped, scriptures used and festivals observed. Hindus may be theist or non-theist, worshipping one or more gods/goddesses or none at all. They represent the ultimate in personal or impersonal terms. Most forms of Hinduism believe in reincarnation or transmigration. The process of birth, life and re-birth repeating for ever is called samsara. Whether the condition of rebirth is pleasant or unpleasant depends on karma, whereby the consequences of actions in one life carry over into and influence the character of the next. The ultimate goal is moksha (release from the cycle of samsara). There is a rich variety of religious literature, the earliest of which come from the Vedic period (c 1200-500 BCE), collectively called the Veda. There are the later religious law books (dharma sutras and dharma shastras) which codified the classes of society (varna) and the 4 stages of life (ashrama) and were the bases of the caste system. There are two great epics, the Ramayana and Mahabharata, the latter containing the very influential scriptural text, Bhagavad Gita. The chief gods are Brahma, Vishnu and Shiva, who together form a triad (Trimurts) and there are numerous lesser deities, including Maya and Lakshmi. Concerned with the realisation of religious values in every aspect of life, there is nonetheless great emphasis on complex and demanding rituals, under the supervision of Brahman priests and teachers. There are 3 categories of worship: temple, domestic and congregational. Pilgrimages are common. There is an annual cycle of local, regional and all-Indian festivals.

ISLAM

Extracts from SHAP calendar of religious festivals 1998-99

Date	Muslim festivals	Remarks
25 June 1999	The Prophet Mohammed's Birthday (20 Aug 570 CE)	
4 November	The Prophet's Night Journey and Ascension (Lailat-ul-Isra' Wal Mi'raj)	
22 November	The Night of Forgiveness (Lailat-ul-Bara'h)	
8 Dec-8 Jan 2000	Ramadan	
January 2000	Lailat-ul-Qadr	
January	Eid-ul-Fitr	
March	Eid-ul-Adha/Festival of Sacrifice	
April	Al-Hijra - New Year's Day	
April	Ashura	

Muslim festivals

MOST IMPORTANT FESTIVAL: EID-UL-FITR (JANUARY 2000, END OF RAMADAN)

25 June 1999

The Prophet Mohammed's Birthday (20 Aug 570 CE): Celebrated on 12th of Rabi-ul-Awwal, the 3rd month of the Muslim calendar, starting, in some Arab countries and in the

Indian sub-continent with readings from the Qu'ran, followed by poetry and songs in praise of the Prophet. There are also lectures and story telling. In some big cities of the Muslim world, there are processions and flags waving under a huge decoration of lights. In the UK, Muslims celebrate at the mosque.

4 November 1999

The Prophet's Night Journey and Ascension (Lailat-ul-Isra'wal Mi'raj): Celebrates the journey of the Prophet Muhammad, in the tenth year of his prophethood, from Makkah to Jerusalem and through the heavens to the presence of God all in a night. On the Journey, the command to pray 5 times a day was given. The rock in Jerusalem from which Muhammad ascended is marked by the Dome of the Rock. Muslims read the Qu'ran and say additional prayers. Sura 2 v 144, 17 v 1. The full story is in the Hadith together with the times of prayer.

22 November 1999

The Night of Forgiveness (Lailat-ul-Bara'h): On 14 Sha'ban the 8th month of the Muslim calendar and 2 weeks before Ramadan, Muslims seek forgiveness for their sins. Muslims believe that on this night a person's destiny is fixed for the coming year by God. The night is spent in prayer asking God's guidance and forgiveness. Many fast on the 14th in preparation for this night. In some parts of the world, Muslims visit the graves of relatives and the giving of charity is also traditional. In some places the night is marked with firework displays.

8 December - 8 January 2000

Ramadan: The month of fasting from dawn to sunset. This means abstaining from all food, drink, smoking and marital relations during daylight hours. This is an exercise in self-discipline giving everyone the experience of deprivation. Fasting (sawm) is one of the 5 pillars of Islam. After the custom of the Prophet, the fast is broken by dates and water. Travellers, the sick, pregnant or menstruating women are temporarily excused from fasting but make this up later. Those unable to fast should give to charity. Children may be encouraged to fast but it is not compulsory until maturity. As the Muslim year is lunar, Ramadan moves forward 10-11 days each year. Surah 2 v 183-188.

January 2000

Lailat-ul-Qadr: The "Night of Power" commemorates the night when the Prophet Muhammad received the first revelation of the Qu'ran. Muslims believe that the night is kept secret by God but Muhammad said that Muslims can seek it in the last 10 days of Ramadan. Many spend the night in prayer and studying the Qu'ran. It is usually celebrated on the 27th day (the night of the 26th) of Ramadan. They pray all night at every mosque. Surah 97 v 1-5, first revelation 2 v 185.

January 2000

Eid-ul-Fitr: Festival of Breaking of the Fast at the end of Ramadan and the start of the first of Shawwal, the 10th month of the Muslim calendar. Eid is known as the Small Festival, "Al-Eid Al-Saghir", as it lasts only 3 days, compared with the 4 days of Eid-ul-Adha, the Festival of Sacrifice. It is a time for almsgiving - the charity of the fast, Zakat-ul-Fitr, which is paid

During Ramadan, must be paid before the Eid Prayer. This is a time for new clothes, good food and presents for children. There are family get-togethers and contacts with friends, especially those far away. The community assembles at the mosque or at a large place which will accommodate the whole community of the town or village for Eid prayer. The traditional greeting is "Eid Mubarak" ("Happy and blessed Eid"). There is no reference in the Qu'ran but in the tradition of the Prophet.

March 2000

Eid-ul-Adha (Festival of Sacrifice): This major festival (Al-Eid Al Kabeer) marks the end of the Hajj (Pilgrimage to Makkah) on the 10th day of the 12th month of Dhul-Hijja. The Hajj is one of the 5 pillars of Islam. Pilgrims sacrifice animals at the village of Mina on their way back to Makkah from Mt Arafat (1st day of festival), in commemoration of Abraham's willingness to sacrifice his son, Ishmael. Muslims who can afford it sacrifice an animal (as Abraham did in substitution for his son Ishmael). The meat is distributed to the poor and some is shared with relatives and friends. Sura 37 v 99-111 and 22 v 26-33, 3 v96-97.

April 2000

Al-Hijra - New Year's Day (1420): Commemorates the Hijra or migration of the Prophet Muhammad from Makkah to Medina in 622 CE which led to the establishment of the Muslim community. Muslim years are dated from this time and are termed AH (After Hijrah). In the celebration at the mosque, stories are told of the Prophet and his companions.

April 2000

Ashura: Many important events took place on 10th (Ashura) of Muharram (the 1st month of the Muslim calendar). The Prophet Muhammad would fast on this day. Ashura is a day of mourning for some, especially Shi'ites, for the martyrdom of Husain, the 2nd son of Ali and Fatimah (the prophet's daughter). The celebrations of the sizeable Shi'ite communities in Iraq, Iran and the Indian sub-continent are very impressive.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Islam means submission. Religion embraces every aspect of life. Individuals, societies and governments should all obey the will of God as set out in the Qu'ran, the Word of God revealed to his Messenger, Muhammad. God is one and has no partners. He is the creator of all things and has absolute power over them. Everyone should commit themselves to lives of grateful and praise-giving obedience to God, for on the Day of Resurrection they will be judged. Those who have obeyed God will live forever in Paradise, but those who have sinned and not repented will spend eternity in hell. God has sent prophets, including Moses and Jesus, for guidance, a succession culminating in the revelation to Muhammad of the perfect Word of God. There are 5 pillars of faith: shahadah (profession of faith); salat (formal prayer); almsgiving; fasting (sawm) during Ramadan; and Hajj (pilgrimage to Makkah). Shariah is the sacred law and applies to all aspects of life. There is no organized priesthood but great respect is accorded to the Hashim family, descendants of Muhammad, and other publicly acknowledged holy men, scholars and teachers, such as mullahs and ayatollahs. Most Muslims

the Sunnis, while the largest minority group are Shi'ites, the main difference being who is regarded as the principal religious authority.

JAINISM

Date	Jain festivals	Remarks
11-20 September	Paryushana-Parva	
20 April 2000	Mahavira Jayanti	

Jain festivals

MOST IMPORTANT FESTIVAL: (probably) PARYUSHANA-PARVA

11-20 September 1999

Paryushana-Parva: Lasts 8 or 10 days. Mendicant teachers give sermons about Mahavira and read the Kalpa Sutra. On the last day, all sins are confessed and the forgiveness of friends and relatives sought, before resolving goodwill to all humanity.

20 April 2000

Mahavira Jayanti: Birthday of the last Tirthankara or great teacher and model of the Jains. The birth and events surrounding it are re-enacted. Any monks/nuns present will read from the scriptures and teach about the rest of Mahavira's life. Lay people then go home for a celebratory feast.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Originating in India, Jains regard Vardhamana Mahavira (599-527 BCE) as the last tirthankara. They do not believe in a creator god; salvation is obtained by strict ascetic discipline, overcoming worldly desires/materialism and thus freeing karma. An essential part of the process of detachment from worldly existence is the practice of ahimsa, non-injury to living beings. This is based on the principle that a person may be reincarnated as an insect or animal. Some Jains wear nose masks, sweep the ground ahead of them or even avoid washing, so as to minimise the risk of injuring or killing body lice or parasites. They may not take employment in the manufacture or sale of weapons or of alcohol.

JAPANESE FESTIVALS

Date	Japanese festivals	Remarks
13-15 July	O-Bon	
23 September	Shubun No Hi (Higan)	
15 November	Shichi-Go-San (Seven-Five-Three)	
31 December	Omisoka	
1 January 2000	Ganjitsu (New Year's Day)	
3 February	Setsubun/Bean scattering	
21 March	Shunbun No Hi (Higan)	

The main religious traditions are Buddhism, Shinto, Confucianism and Taoism, as well as Japanese folk religion. Other religions, such as Christianity and the "new" and "new new" religions are also practised. The festivals listed here are as shown in the SHAP calendar.

MAIN FESTIVAL: (probably) GANJITSU (1 January)(New Year)

13-15 July

O-Bon: The spirits of the departed are welcomed back home with feasting and dancing. Fires are lit to light their arrival and departure.

23 September

Shubun No Hi (Higan): The Autumn Equinox. Harmony and balance are the themes, sutras are recited and people visit the graves of relatives.

15 November

Shichi-go-san (Seven-five-three): Girls of seven and three and boys of five are dressed in new clothes and taken to a Shinto shrine to pray for their future well-being.

31 December

Omisoka: Preparation for the New Year by cleaning (Shinto-related) home shrines and (Buddhist-related) altars. In Buddhist temples, bells are struck 108 times to warn of the 108 evils to be overcome.

1 January 2000

Ganjitsu (New Year's Day): Lasting up to 3 days, businesses are closed, families are together, decorations are put up and the first visits of the year are made to shrines.

3 February 2000

Setsubun/Bean scattering: Bean scattering ceremony at home and in the temple.

21 March 2000

Shunbun No Hi (Higan): The Spring Equinox is marked by the recital of sutras and visiting the graves of relatives. The theme is harmony and balance.

8 April 2000

Hanamatsuri: A flower festival marking the birthday of Buddha Shakyamuni, recalling that the Buddha was born in a garden, when people make floral shrines and set in them an image of the infant Buddha. Theravadins celebrate Buddha's birth, enlightenment and passing away all on the same day later in the year, at the time of the full moon in May.

JUDAISM

Extracts from SHAP calendar of religious festivals 1998-99

Date	Jewish festivals	Remarks
22 July	Tisha B'av	
11-12 September	Rosh Hashana - New Year's Day 5760	
20 September	Yom Kippur (Day of Atonement)	
25-26 September	Sukkot	
3 October	Simchat Torah	
4-11 December	Hanukah	
January/February 2000	Tu B'Shevat	
February/March	Purim	
March/April	Passover/Pesach	
13 April	Yom Ha-Shoah (Holocaust Day):	
April/May	Lag B'Omer	
May	Shavuot: (Festival of Weeks - Pentecost)	

Jewish festivals

MOST IMPORTANT FESTIVAL: YOM KIPPUR (DAY OF ATONEMENT) (20 SEPTEMBER 1999)

22 July 1999

Tisha B'Av: Full day fast mourning the destruction of the first and second Temples in Jerusalem and other tragedies in Jewish history. The Book of Lamentations is read.

11 - 12 September 1999

Rosh Hashana: New Year's Day 5760, celebrates the creation of the world. This festival begins ten days of repentance and self-examination, during which God sits in judgement on every individual. The blowing of the ram's horn (shofar) in the synagogue is a reminder of Abraham's sacrifice of a ram instead of his son, Isaac. Apples dipped in honey are eaten in the hope of a "sweet" year. The greeting is Leshanah Tovah Tikatev (May you be inscribed for a good year). Genesis 22. Leviticus 23 v 24-25.

20 September 1999

Yom Kippur (Day of Atonement): This is the final day of the ten days of repentance. It is the holiest day of the year. The Bible calls it the "Sabbath of Sabbaths" which is also marked by "afflicting the soul" - expressed through a total fast lasting 25 hours. Jews spend the eve and most of the day in prayer asking for forgiveness for past wrongs and resolving to improve in future. The Book of Jonah is read. A common greeting is G'mar Chatimah Tovah (May you finally be sealed for good). Leviticus 16 v 4-34, 23 v 27-32.

23 - 26 September 1999

Sukkot: Harvest festival, commemorating the 40 years in the wilderness while escaping slavery in Egypt to freedom in the Promised Land. A temporary hut or booth (Sukkah) is used for eating meals in and for socialising. In hot countries families may live in them during the festival. The roof must be open to the elements and is covered with branches and decorated with fruit. The lulav (palm branch), etrog (citrus fruit), hadas (myrtle) and aravash (willow) are used. Leviticus 23 v 33-43.

3 October 1999

Simchat Torah: Marks the completion of the annual cycle of reading the Torah. As the reading should be continuous, a second scroll is begun as soon as the final portion is read. As the reading of Deuteronomy begins, with the next breath, Genesis begins. All the Torah scrolls are paraded around the synagogue with children dancing and singing. Progressive Jews celebrate this one day earlier.

4 - 11 December 1999

Hanukah: Celebrates the rededication of the Temple in Jerusalem after the Maccabees recaptured it from the Syrian Greeks 165 BCE. For the 8 evenings of the festival, candles are lit from right to left in a hanukkiah, a 9-branched menorah, one candle for each evening plus the shamash, the servant candle from which the others are lit. Foods cooked with oil, such as doughnuts and latkes (potato cakes) are traditional, as reminders of the miracle with oil that happened at this time. A game of dreidel is popular with children to commemorate "the great miracle that happened there".

January/February 2000

Tu B'Shevat: Celebrates the New Year for trees. New trees are planted and a special attempt made to eat fruit from Israel.

February/March 2000

Purim: The saving of the Jewish community of Persia, told in the Book of Esther (Megillah). This is read twice in the synagogue. Haman's name is drowned out with rattles and hooters by the congregation whenever it is read. Many come in fancy dress. Hamantashen (Haman pockets, cakes filled with poppy seeds) are made and eaten.

March/April 2000

Passover/Pesach: A major 8-day festival when Jews commemorate the Exodus from slavery in Egypt. A highlight is the Seder meal held in homes at the beginning of the festival when the story of deliverance is told following the Haggadah ("Telling the Story"). Matzo (unleavened bread) and unleavened food is eaten throughout the festival. The home is thoroughly cleaned before the festival, to make sure that there is no leaven in the home during Pesach. Coconut pyramids and matzo balls (put in soups) may be eaten. Exodus 7-12.

April 2000

Yom Ha-Shoah (Holocaust Day): A day of remembrance for the victims of the Nazi Holocaust. Memorial candles are lit and special services held.

April/May 2000

Lag B'Omer: The Omer period of 49 days from Pesach to Shavuot is a time of sadness relieved on this 33rd day, when a plague in Roman times ended. Often celebrated outdoors and weddings are allowed, unlike in the rest of Omer.

May 2000

Shavuot (Festival of Weeks - Pentecost): Seven weeks after Pesach, it celebrates the revelation of the Torah on Mt Sinai and the early harvest season in Israel. Synagogues are decorated with flowers and dairy foods (such as blintzes and cheesecake) are eaten. Exodus 19 & 20, Leviticus 23 v 15-22, Deuteronomy 16 v 9-12.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Jews believe in one God, the transcendent creator of the world who delivered the Israelites from bondage in Egypt, revealed his law (Torah) to them and chose them as the light for all mankind. Primary source is the Hebrew Bible. Next in importance is the Talmud. Jews see themselves as having their origins in the patriarchal period. They prefer ritual to abstract doctrine. The family is the basic unit of ritual. Sabbath is the central religious observance, while the synagogue is the centre for community worship and study. Rabbis are primarily teachers and spiritual guides. Orthodox Judaism seeks to preserve traditional Judaism while Reformed Jews seek to interpret Judaism in the light of modern knowledge/scholarship. Liberal Jews carry this further. Conservatives seek to modify Orthodoxy by emphasising the positive historical elements of tradition. Persecution has given urgency to the Zionist quest for a Jewish homeland.

RASTAFARIANISM

Date	Rastafarian festivals	Remarks
23 July	Birthday of Haile Selassie I	
11 September	Ethiopian New Year's Day	
2 November	Anniversary of the Crowning of Haile Selassie I	

Rastafarian festivals

MOST IMPORTANT FESTIVALS: THE BIRTHDAY OF HAILE SELASSIE I (23 JULY 1999) AND THE ANNIVERSARY OF THE CROWNING OF HAILE SELASSIE I (2 NOVEMBER 1999)

23 July 1999

Birthday of Haile Selassie I: One of the holiest days of the year, celebrated with Nyahbinghi drumming, hymns and prayers.

11 September 1999

Ethiopian New Year's Day: Marks the beginning of the year of the apostle, John. There is a four year cycle. The current year, ending 10 September 1999, is the year of Matthew.

2 November 1999

Anniversary of the Crowning of Haile Selassie I: One of the holiest days of the year, celebrating his accession to the Ethiopian throne.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Caribbean religious movement, which sees Ethiopia as the promised land. Haile Selassie I came to be seen as the Messiah when he was crowned Emperor of Ethiopia in 1930. Jamaica is seen as the Babylon to which Africans (one of the 12 tribes of Israel) were expelled and all Africans can look forward to returning to Ethiopia. There is a strict diet code (no pork, coffee, or milk) but taking ganja (marijuana) is held to be a sacrament. The movement is based on the thoughts of Jamaican political activist Marcus Garvey (1887-1940).

SIKHISM

Extracts from SHAP calendar of religious festivals 1998-99

Date	Sikh festivals	Remarks
16 June	Martyrdom of Guru arjan (1606)	
October (varies)	Birthday of Guru Nanak (1469)	
5-7 November	Diwali/Deepavali	Hindu/Sikh
5 January 2000	Birthday of Guru Gobind Singh (1666)	
14 April	Vaisakhi (Baisakhi) - New Year Festival	

Sikh festivals

MOST IMPORTANT FESTIVAL: (probably) DIVALI/DEEPAVALI (5-7 NOVEMBER 1999) or VAISAKHI (14 April 2000)

October 1999 (date to be confirmed)

Birthday of Guru Nanak (1469): The first Sikh Guru. To celebrate such birthdays an akhand path is begun about two days before, so that it is finished on the festival. This is a complete, uninterrupted reading of the Guru Granth Sahib. People gather at the gurdwara for

sermons and hymn singing about the first Guru. There is a shared meal (langar) from the free kitchen. The gurdwara is usually illuminated and there are firework displays.

5-7 November 1999

Diwali/Deepavali: A festival of light, celebrated on the darkest night of the lunar month. The festival is generally associated with Lakshmi, goddess of wealth and prosperity or with the victorious return of Rama and Sita to the kingdom of Ayodha after the exile. Diwali marks the beginning of the financial year. The sixth Guru, Hargobind, was released from prison on this day. He refused to accept release from Emperor Jehangir until 52 imprisoned Hindu princes were also freed. To meet the Emperor's condition that only those who could hold on to his cloak could leave, the Guru had a coat made with long tassels. The Golden Temple in Amritsar is illuminated and there are firework displays. It is a time for new clothes, presents and sweets.

24 November 1999

Martyrdom of Guru Tegh Bahadur (1675): The ninth Guru was executed under orders from the Mogul emperor in public, opposite the Red Fort in Delhi. This was for upholding an individual's right to worship in the manner of his/her choice.

5 January 2000

Birthday of Guru Gobind Singh (1666): The tenth Guru, who instituted the 5 K's and established the Order of the Khalsa on Vaisakhi (Baisakhi). The main feature is an akhand path (see **Birthday of Guru Nanak**) normally lasting 48 hours.

14 April 2000

Vaisakhi (Baisakhi) - New Year Festival: In 1699 on Vaisakhi the tenth Guru, Gobind Singh, founded the Order of the Khalsa. Five men, later known as the Panj Piare (Five Beloved Ones) were prepared to offer their lives when the Guru asked for volunteers. On this day the Five K's were made obligatory and Sikh men took the name "Singh" and women "Kaur". The initiation ceremony, amrit, was introduced. This is the only Sikh festival generally celebrated on the same date each year.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Founded by Guru Nanak (1469-1539) in the Punjab, Sikhism combines elements from Hindu and Islam. Nanak believed that the ritual of both these religions obscured the truth about God. He saw meditation and devotion, rather than ritual, as the way of getting close to God. A "religion of the gurus", it seeks union with God through worship and service. God's word comes to humanity through the ten gurus. The line ended in 1708, since when the community has been called guru. The Sikh understanding of life is closely related to Punjab identity.

ZOROASTRIANISM

Date	Zoroastrian festivals	Remarks
12-21 August	Farvardigan	
22 August	No Ruz	
27 August	Khordad Sal	
March 2000	Jamshedi Noruz	
May	Zartusht-No-Diso	

Zoroastrian festivals

MOST IMPORTANT FESTIVAL: not clear from available resources. Possibly Khordad Sal (27 August 1999)

12-21 August

Farvardigan: The last 10 days of the year, when the Fravashis or souls of the departed are welcomed and entertained. The five Gathas (hymns) composed by Zarathustra are recited on the last 5 Gatha days.

22 August

No ruz: New Year's Day (Shenshai calendar).

27 August

Khordad Sal: Birthday of Zarathustra.

March 2000

Jamshedi Noruz: New Year's Day on the Fasli calendar used in Iran, this is a family day. Eggs and evergreens figure as symbols of life, continuity and eternity.

May 2000

Zartusht-No-Diso: The death of the prophet Zarathustra is marked by special services devoted to him and to the Fravashis, the spirits of the dead.

Summary of beliefs

Information from the Wordsworth Dictionary of Beliefs and Religions

Founded by and on the teachings of Zoroaster (a Greek rendition of "Zarathustra"), born circa 1000 BCE, a priest of the ancient Indo-Iranian religion, which worshipped divinities responsible for "Right Order" and stability in the Universe, such as Mithra, Lord of the Covenant or Contract. Some tribes began to worship heroic or warlike divinities, such as Indra. Zoroaster rejected such gods, restricting worship to moral ahuras, such as Ahura

Mazda, Mithra and Amesha Spentas. Zoroastrians see the world as a theatre of war between the forces of good and evil. The latter will be defeated at the End of Time (Frashokerets) and the Universe will be perfect and completely free, even of the threat of evil (unlike at the dawn of creation by Ahura Mazda). All creatures/phenomena, except humans, were created either by Ahura Mazda or by his evil opponent (Angra Mainyu) and thus cannot help but be good (eg fire, water, earth, useful plants, beneficent animals) or evil. Humans are the only creatures capable of moral choice. Each individual must make his/her own choice in favour of Ahura Mazda and thus help defeat Angra Mainyu. After death, the soul is judged at the Chinvat Bridge and then sent to heaven or (temporarily) to hell or purgatory, according to the balance of good and evil thoughts, words and deeds on earth.

Home Office
Race Equality Unit

26 July 1999

(f)



Top: DN
cc: ES OA
PU

Rt Hon Alun Michael JP MP AM

Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Prif Ysgrifennydd · First Secretary

Parc Cathays
Caerdydd CF10 3NQ
01222 825111 GTN: 1208

Cathays Park
Cardiff CF10 3NQ
01222 825111 GTN: 1208

Our Ref: FS 397/99

Rt Hon Tony Blair MP
Prime Minister
10 Downing Street
London

19 August 1999

Alun Tony,

Cardiff is to play host, next March to the Global Cultural Diversity Congress 2000.

This is a significant event and will help establish Cardiff as a recognised and exciting multi-cultural international conference venue.

I have agreed to co-host the conference along with the Commission for Racial Equality and the Australian multi-cultural body. In order to achieve maximum sponsorship for this event I have written to endorse an invitation for Nelson Mandela to attend the Congress. A copy of my letter is attached.

I am writing similarly to Jack Straw.

Yours sincerely
Alun Michael



Rt Hon Alun Michael JP MP AM

Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Prif Ysgrifennydd · First Secretary

Parc Cathays
Caerdydd CF10 3NQ
01222 825111 GTN: 1208

Cathays Park
Cardiff CF10 3NQ
01222 825111 GTN: 1208

Our Ref: FS 397/99

Mr Nelson Mandela
Cape Town
South Africa
(via British High Commission)

19 August 1999

Nelson Mandela,

As First Secretary of the National Assembly for Wales I have been asked to co-host the Global Cultural Diversity Congress 2000 in Cardiff next March. I understand that you have been invited to attend the Congress and my purpose in writing to you is to endorse that invitation. Your personal links with Wales and with Cardiff would make this particularly appropriate.

The New National Assembly for Wales was created in May this year and has put equality issues high on its agenda. The Congress will help establish Cardiff as a recognised and exciting multicultural international conference venue and your presence would certainly add weight to that aim.

I have a strong personal interest in promoting those ideas, having spent a number of years as a community worker in Cardiff's docklands as well as being involved in the Wales Anti-Apartheid Movement. Also, my eldest daughter is a "mother" in the SOS Children's Village in Cape Town.

All of us in Cardiff were extremely honoured last year when you came to visit and proud that you honoured us by accepting the Freedom of our capital City. Your presence in Cardiff next March would be a great boost to the conference and to Wales in the early days of our new democracy.

Yours sincerely
Alun Michael

Llinell union/Direct line: 01222 825588
Ffacs/Fax: 01222 826244
Minicom: 01222 823280



Minister for the Cabinet Office
Chancellor of the Duchy of Lancaster

Top - DJ
cc OB
PJ
CABINET OFFICE
70 Whitehall, London, SW1A 2AS
Telephone: 0171-270 0400

(f)

The Rt Hon Jack Straw MP
Home Secretary
50 Queen Anne's Gate
London SW1H 9AT

//

August 1999

Dear Jack,

RACE EQUALITY EMPLOYMENT TARGETS FOR ETHNIC MINORITY STAFF

Thank you for your minute and enclosed document of 23 July 1999, about your race equality employment targets for ethnic minority staff.

I welcome your paper which reflects your clear commitment to the equality of opportunity and sets out your agenda for change for the Home Office and its service areas.

I agree that the setting of targets will help to promote race equality throughout the public sector and provide a source of inspiration for others to follow. A group supporting the Civil Service Management Committee is currently, as you know, looking at ways of making real progress in building an accessible Civil Service which recruits, retains and demonstrably values a diverse workforce. The Home Office strategy will helpfully feed into and complement their work.

This is an important issue and we must ensure we make clear progress across a number of fronts.

I am copying this letter to the Prime Minister, to Cabinet colleagues, and to Sir Richard Wilson.

As ever,
Jack.
JACK CUNNINGHAM

C99/13353/05866

Miss Kate Garvey
Assistant Private Secretary
10 Downing Street
LONDON
SW1A 2AA

13 August 1999

Dear Kate,

Thank you for your letter of 23 March to Rob Goodyear enclosing one from Ged Grebby, Project Co-Ordinator of Show Racism the Red Card, inviting the Prime Minister to attend the French and Spanish launches of the initiative later this month. Mr Grebby has written in similar terms to the Minister for Sport. This is the latest in a lengthy series of correspondence which Mr Grebby has had with central Government, principally this Department, about this initiative.

Show Racism the Red Card is a European anti racist education project that has been developed by Youth Against Racism in Europe, the Independent Newcastle United Supporters' Association and the Racial Equality Councils of Tyne & Wear and Cleveland. It uses 57 top professional footballers from around the world as role models to enable young people to combat racism. The project's primary objective is to spread an anti racism message throughout Europe using a video and associated magazine to illustrate how footballers from all over the world play together in successful teams.

The project has received £20,500 in sponsorship from the European Commission and the video received its European launch at the European Parliament in November 1997. In this country Show Racism the Red Card has the backing of The Football Association, the Commission for Racial Equality, and the Professional Footballers Association. The Prime Minister and the then Minister for Sport wrote letters of support for the project when it was first launched 18 months ago, and my Secretary of State and the then Minister for Sport each attended one of the UK regional launches of the project in late 1997. The then Minister for Sport also attended the Leicester launch of the video in March and the Italian launch of the project in Rome in June.

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We have always been careful not to give Government endorsement for the project as the organisers have not made it clear whether a charge will be made for the video and who will benefit from any profits made. Rather, we have adopted the approach of being generally supportive of the project's aims of using football to spread an anti racist message.

.... In view of the considerable amount of Ministerial support which Mr Grebby has already been given for his initiative, the Minister for Sport has recently written to him (copy attached) declining this latest invitation but sending her best wishes for the success of the forthcoming French launch of the initiative.

Yours ever,

Chris

CHRIS CARR
Private Secretary

Ged Grebby Esq
Project Co-ordinator
Show Racism the Red Card
1 Drury Lane
Newcastle-upon-Tyne
NE1 1EA

Your Ref:

Our Ref:

4 August 1999



Dear Ged,

French Launch of the Show Racism the Red Card Video

Thank you for your two letters of 31 inviting me to the French Launch of the Show Racism the Red Card Video on Friday 19 August.

Whilst I appreciate the excellent work your organisation has achieved in tackling this problem in football, I am unfortunately unable to accept your kind invitation at this time. As I am sure you will appreciate, I have a number of pressing concerns which have made my diary very busy for the next few months and it is impossible to fit this into my schedule.

Best wishes for the future, and I wish you every success with the French launch.

Yours sincerely

Kate

KATE HOEY

Project Co-ordinator - Ged Grebby
1 Drury Lane, Newcastle upon Tyne. NE1 1EA
Tel / Fax : 0191 291 0160 - Mobile: 0410 776616
E-Mail : srtrc@cableinet.co.uk

Dedine - Draft gov NA

FAO : Kate Hoey.

30.7.99.


RE: French launch of the Show Racism the Red Card video.

Dear Kate,

Congratulations on your new post as Sports Minister. We have sent you details of our launches in France and Spain and it would be great if you could attend either event.

Could you let me know if you already have access to a copy of our video? If not we will send you one today.

All the best,


Ged Grebby.

Major Sponsors:

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FROM THE DEPUTY PRIME MINISTER

Top-RR
cc DNol
PJ

→ file



DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3011
FAX: 0171 890 4399

OUR REF: IDC - 165/99

The Rt Hon Jack Straw MP
Secretary of State for the Home Department
50 Queen Anne's Gate
LONDON
SW1H 9AT

- 2 AUG 1999

A handwritten signature in black ink, appearing to read 'Jack Straw'.

RACE RELATIONS (AMENDMENT) BILL

This letter gives you HS clearance to proceed as you proposed in your letters to me of 16 June and 20 July, subject to the points raised by colleagues recorded below.

You explained in your letter of 16 June that you sought agreement to the policy to be given effect through the Third Session Race Relations (Amendment) Bill agreed by Cabinet in the light of the Stephen Lawrence Inquiry report. You also sought approval to include in the Bill two additional proposals. One of these was to make the Bill compatible with the Convention Rights set out in the Human Rights Act. You explained that the attached paper by your officials set out the proposals in detail.

You proposed that: there should be a new provision making it unlawful for public authorities to discriminate on racial grounds in the exercise of any of their functions, covering direct, but not indirect, discrimination; public authorities should be defined by reference to a list, taking that in the draft Freedom of Information Bill as a starting point; proceedings arising from the new provision should be brought in the county court or sheriff's court and should be subject to the same procedures as existing non-employment cases under the Race Relations Act (RRA); Chief Officers should have vicarious liability for racial discrimination by police officers; an appeals tribunal should be created to hear appeals against national security certificates issued under the RRA, removing an

EHCR incompatibility in the existing Act; and the provisions of the RRA on the burden of proof and indirect discrimination be aligned with those in the EC Burden of Proof Directive on gender. You expected such a Bill to run to 8-15 clauses and 2 Schedules. In seeking responses from colleagues you stated that it would be helpful to receive suggestions relating to the definition of public authorities, and on any other potential areas of vicarious liability.

Replies were received from the Prime Minister, Derry Irvine, David Blunkett, George Robertson, Frank Dobson, Mo Mowlam, Chris Smith, Alistair Darling, Stephen Byers, Alun Michael, John Reid, Margaret Jay, John Morris, Richard Caborn and Adam Ingram. The Prime Minister had two concerns; David, Stephen and Margaret could not agree to your proposals as outlined in your letter of 16 June; Richard was content, subject to points to be raised in correspondence by his officials; other colleagues were broadly content with your approach, but raised points which they wanted you to take into account.

The Prime Minister asked for more details concerning chief police officers being made vicariously liable for racial discrimination by officers. He asked how this would work in practice, what ACPO's view would be, what the impact of the measure would be, and whether there was an equivalent provision for other chief officers. He noted that you had agreed to withdraw your proposal to extend the EU Burden of Proof Directive to race discrimination as a provision in the Third Session Bill, and he thought it very important to consider a regulatory impact assessment (RIA) of any such proposal before taking a decision in favour of an extension in principle or in practice. He would like to see the RIA when it was produced. He thought that public pronouncements at this stage should go no further than saying that an assessment would be made of the relative benefits and burdens of extending the Directive.

Your letter to the Prime Minister of 20 July explained that under the RRA as it stands, all employers are vicariously liable for racial discrimination by their employees, but because police officers are office-holders and not employees, chief officers are not vicariously liable. The proposed provisions would bring the police into line with other employees. You explained that it was possible that the new provision would encourage a greater number of cases to be brought against the police. You further explained that ACPO was not opposed to the extension of vicarious liability. You also noted that you had withdrawn your proposal for the Burden of Proof provisions to be included in the Third Session Bill and that an RIA would be carefully considered.

David and Margaret could not support your proposal to bring the RRA in line with the Burden of Proof Directive in the Third Session Bill, and outlined their objections. As noted above, you have withdrawn that proposal.

David also stated that you should ensure that educational institutions were not on the list of public authorities to be covered, as they were already covered in ways which were wider than those proposed in the Bill. Your letter of 20 July said that your officials would discuss whether there were areas where educational bodies could be included on the list without overlap or duplication.

Stephen did not support your proposal that an appeals tribunal should be created to hear appeals against national security certificates issued under the RRA. He explained that he was tabling an amendment to the Employment Relations Bill. This would provide Ministers with the power to direct that proceedings would be heard by a specially comprised tribunal sitting in private in cases involving national security, rather than having Ministers issue national security certificates. David supported Stephen's approach. In your letter to Stephen of 2 July you stated that Stephen's approach was more restrictive than that taken under the Northern Ireland Act 1998 (NIA). You had proposed a broader based appeal in order to address ECHR issues and you thought it arguable that the more restrictive approach was compatible with the ECHR. You would need to ensure compliance in relation to the Race Relations (Amendment) Bill and if, after further discussions, it was decided that provisions should be less restrictive, you hoped it would be possible to amend them at a later date. Subject to that, you were content for Stephen to proceed with his proposed amendment to the RRA. You explained in your letter of 20 July that it would seem sensible for your provisions to be based on those in the Employment Relations Bill.

Derry said that his officials would continue to explore with yours points of detail, especially on costs and judicial appointments. He stressed that he had no provision to meet any additional costs and that these would need to be provided for. Regarding vicarious liability, he suggested that it would not be appropriate to have arrangements analogous to those for chief police officers in relation to Justice's Clerks and Clerks to General Commissioners of Income Tax. You agreed in your letter of 20 July but suggested that your officials discussed the options, depending on whether the courts were covered by the general provisions.

George said that he would want to look at the issue of vicarious liability in relation to the Ministry of Defence Police and that his officials would contact yours. He would write again.

Mo noted that Northern Ireland had separate Race Relations legislation and that in due course any amendments would be the responsibility of the Assembly. In relation to chief police officers, she wanted to see similar arrangements in Northern Ireland, but she would wait to see Chris Patten's Commission's Report. Adam reiterated these points in his reply to your letter of 20 July.

Chris supported your proposal to list those public authorities which fall within the scope of the Bill, as long as it was envisaged that all other publicly funded bodies would be eligible for inclusion by Order in the scope of the legislation. You said in your letter of 20 July that this was your intention, but that the precise details of the Order remained to be developed. Chris thanked you for this clarification in his letter of 23 July.

Alun was concerned that the proposals did not cover indirect discrimination. You said in your letter of 20 July that you were sensitive to this concern, but that a better way to address the issue would be through a duty on public bodies to promote race equality. Chris supported this approach.

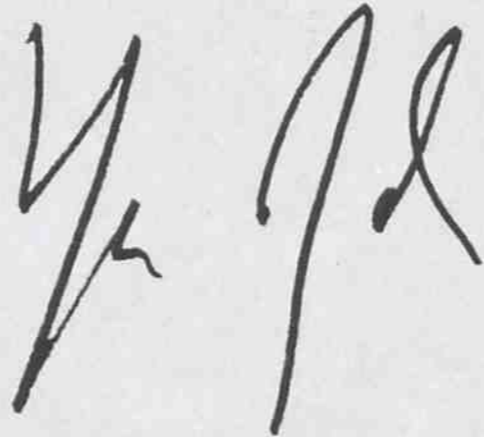
Frank supported your proposals, but noted that it should be possible to amend the list of public authorities without the need for primary legislation. There were some points of detail which required further discussion.

Alistair said that his officials would liaise with yours about the issue of vicarious liability, particularly in relation to how the enforcement procedure would interact with social security decision making and appeals procedure.

John Reid noted that the Bill's provisions would extend to Scottish public authorities operating in devolved areas and he requested that you keep him informed and involve Scottish Ministers in compiling the list of public authorities to be covered. In your letter of 20 July you hoped that he would accept that he and Scottish Ministers would be in the best position to compile the list of Scottish public authorities, but you confirmed that your officials were in touch with Scottish Executive officials to offer assistance.

John Morris said that the proposal to cover all authorities in respect of any function was problematic for the Crown Prosecution Service and called for an urgent meeting of officials to refine policy in relation to prosecutions. Your letter of 20 July stated that a first meeting had taken place.

/ I am copying this letter to the Prime Minister, members of HS and LEG Committees, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

A handwritten signature in black ink, appearing to be 'JP', written in a cursive style.

JOHN PRESCOTT

File

cos/lloyd kk

From: Jonathan Powell
Date: 2 August 1999

LIZ LLOYD

cc: David North
Lucie McNeill

I have sent a holding reply to the attached letter. I would be grateful for your considered advice on whether the Prime Minister should do it as soon as possible.



JONATHAN POWELL



10 DOWNING STREET
LONDON SW1A 2AA

From the Prime Minister's Chief of Staff

2 August 1999

Dear Sue,

Thank you for your letter of 12 July. I will pursue this with colleagues and respond as soon as possible.

*Yours
Jonathan Powell*

JONATHAN POWELL

Ms Sue Woodford Hollick

COMMISSION ON THE FUTURE OF MULTI-ETHNIC BRITAIN



RZH

Jonathan Powell
Chief of Staff
10 Downing Street
London SW1A 2AA

LH
cc DN
KG
for advice from

Together. cc DN
FH
KG
perhaps, once we
have seen the report
but no comments
until then

JW *g*

12 July 1999

Dear Jonathan

I am writing on behalf of The Commission on the Future of Multi-Ethnic Britain to ask if the Prime Minister would agree to launch the Commission's final report, which is due to be published in Spring 2000.

You may remember, the Commission, chaired this year by Professor Bhikhu Parekh, was launched at the beginning of 1998 by the Home Secretary, with the support of the Prime Minister.

We are planning a series of launch conferences around the country during 2000, venues to include London, Birmingham, Cardiff and Edinburgh. Ideally, we would like the Prime Minister to open the first conference and launch the report. This could be scheduled for any date, from mid-May onwards, that his diary allows. We assume London to be the most convenient venue, but it could be elsewhere. I have also written to the Home Secretary asking if he would attend this or one of the other launches.

We hope that a copy of the final report will be available to your office towards the end of this year.

Thank you for your assistance. I look forward to hearing from you.

Yours sincerely

Sue Woodford Hollick
Commission on the Future of Multi-Ethnic Britain

133 Aldersgate Street
London EC1 4JA

Telephone 0171 600 9111

Pacsimile 0171 600 8999

Email run1@btinternet.com



Jonathan Powell
Chief of Staff
10 Downing Street
London SW1A 2AA

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Sue Woodford Hollick
Commission on the Future of Multi-Ethnic Britain

133 Aldersgate Street
London EC1 4JA

Telephone 0171 600 9111

Facsimile 0171 600 8999

Email run1@btinternet.com



Top: DN
(letter)
cc: JH
R

✓ J Kohli
(Cub Off)

Any news?
DN

(f)

Prime Minister

RACE EQUALITY EMPLOYMENT TARGETS FOR ETHNIC MINORITY STAFF

I have today published a paper on race equality employment targets in the Home Office and its service areas. The recruitment, retention and career progression targets aim to make these services more reflective of the communities they serve and thereby better able to serve them well. I enclose a copy.

2. I am committed to making the Home Office and its service areas, that is police, fire, prison and probation services, beacons of good practice in promoting race equality in the public sector. I will monitor progress against the targets closely, and will pass on the results to colleagues so as to help the promotion of race equality throughout the public sector.

3. I am copying this minute to Cabinet and Sir Richard Wilson.

Jack Straw

23rd July 1999



HOME OFFICE

RACE EQUALITY -
THE HOME SECRETARY'S
EMPLOYMENT TARGETS

*Staff Targets for the Home Office, the Prison,
the Police, the Fire and the Probation Services*

28 July 1999

*A Home Office publication under section 95 of the
Criminal Justice Act 1991*



The Government is committed to creating One Nation, a country:

- *where every colour is a good colour;*
- *where every member of every part of society is able to fulfil their potential;*
- *where racism is unacceptable and counteracted;*
- *where everyone is treated according to their needs;*
- *where everyone recognises their responsibilities; and*
- *where racial diversity is celebrated.*

**THE HOME OFFICE
STATEMENT OF PURPOSE**

To build a safe, just and tolerant society in which the rights and responsibilities of individuals, families and communities are properly balanced and the protection and security of the public are maintained.

Foreword by the Home Secretary



This document contains the recruitment, retention and career progression targets which have been set for the Home Office and its service areas - the Prison Service, the Police Service, the Fire Service and the Probation Service. In publishing these targets I fulfil the intention I signalled last autumn.

These targets form one clear element of the Government's plans for making this country a successful multi-cultural society. When I published my Action Plan in response to the Stephen Lawrence Inquiry I set out a number of principles which would guide the work in the plan.

One of these principles centred on partnership and involvement with black and Asian people and their representative bodies. The targets set out here will go some way to ensuring local public services are truly representative of these communities, and as a consequence they will be better placed to provide the services those communities need and deserve.

These changes will not, however, be achieved overnight, which is why I have set out a ten year agenda. But we will be monitoring the situation closely and will be looking for clear progress by the milestones that I have also set.

A handwritten signature in dark ink that reads "Jack Straw". The signature is written in a cursive, slightly stylized font.

Jack Straw

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RECRUITMENT, RETENTION AND CAREER PROGRESSION TARGETS FOR ETHNIC MINORITY STAFF IN THE HOME OFFICE AND ITS SERVICE AREAS

Introduction

The Government is committed to making Britain a successful multicultural society. The recent Lawrence Report has highlighted the pressing need for Government action to achieve real and positive gains in meeting its commitment.

Ethnic minority communities in this country make up some 7% of the total working population, and there is every indication that this figure will move upwards in the future. In some parts of the country people from ethnic minority groups represent a significant proportion of the local community. For public service providers to interact effectively with their local communities and provide a service which meets local needs and priorities it is right and proper that they reflect the ethnicity of the local community they serve and draw their resources from.

The Home Secretary has put together an agenda for change to deliver his contribution to this commitment, and has decided, as part of his overall race equality strategy, to set recruitment, retention and career progression targets of ethnic minority staff for the Home Office and its service areas.

The targets for the Home Office and its service areas are set out in full in the annexes and appendices at the end of this document, and they are discussed in subsequent sections.

The aim is to use the Home Office and its service areas as beacons of good practice for other parts of the public sector.

Background

In October 1998 the Home Secretary announced at the Black Police Association AGM that he would be setting targets - not quotas - for the recruitment, retention and career progression of ethnic minority staff for the Home Office and its service areas, that is the Prison Service, the Police Service, the Fire Service and the Probation

Service. The first of these for the recruitment, retention and career progression of ethnic minority police officers was announced by the Home Secretary at a special conference in April this year. A Fire Service Circular on the Fire Service recruitment targets was issued on 8 June 1999. The purpose of this document is to build on those announcements and extend the targets to the other Home Office service areas.

In June this year a paper on the targets for ethnic minority staff recruitment, retention and career progression for the Home Office and its service areas was presented to the Race Relations Forum at its quarterly meeting. The successful implementation of these targets will not occur unless they properly take account of the ethnic minority perspectives.

Principles for target setting

At its March meeting this year the Race Relations Forum discussed and agreed a set of principles which underpin the targets set on recruitment, retention and career progression within the Home Office and its service areas. These principles are as follows:

- the targets set will need to reflect the local circumstances facing the service concerned. National and local issues, where relevant, will need to be taken into account;
- the targets set should be done on the basis of the outcome that would be expected assuming systems were fair;
- there needs to be a recognition that proper progress can only be achieved over time and that this should be reflected by the ten year agenda set for the sought changes; and
- there should be fixed milestones set at three and five years against which progress can be properly reviewed.

Why set targets for the Home Office and its services?

Equal rights and opportunities mean equal access to power and the policy-making process. This means having and supporting a workforce that reflects at every level those it serves. It means all communities having a well placed confidence in the services which serve them.

Targets - not quotas - have been shown to help focus minds and to change behaviour. Targets can be used successfully to tackle issues of race discrimination, and it is the Home Secretary's intention so to do.

The achievement of targets will help make sure that these services not only represent the communities they serve but also serve those communities better. At present, the Home Office and its service areas have an imbalance towards the majority population; this cannot be right as it shows that the huge pool of talent available is not being drawn upon properly. The introduction of targets provides a framework against which milestones can be set and progress can be monitored.

What will these targets achieve?

Changing the face of the Home Office and its services is vital so that they better represent and thereby serve their local communities more effectively. The Home Secretary has set himself a ten year agenda for change.

The use of milestones and stringent monitoring procedures will allow the existing momentum to be maintained over the ten year period. The outcome will be services which the local community truly believe will meet their needs and also can provide a meaningful career choice with progression right through the organisation for those suitably able.

What are the targets?

The targets set for the Home Office and its service areas cover five key areas of these organisations, as follows:

- First, they look at recruitment into the organisation;
- Second, they look at retention, that is how long staff remain within the organisation;

- Third, they look at career progression so that all staff have an equal opportunity to advance;
- Fourth, they look specifically at the senior officer level because of the importance that that has to the ethos of the organisation; and
- Finally, they look at the processes which will be adopted to achieve these targets - the implementation strategies.

Recruitment Targets

The recruitment targets for the Home Office and its service areas are set out in Annex A. The targets aim to reflect local ethnic minority population levels as represented by the Labour Force Survey. (Twelve quarters between 1996 and 1998 were used to obtain a suitable level of accuracy. It represents the population aged 18 to 54, that is the pool of available labour.)

Where recruitment typically takes place from a clear local catchment area, then the targets reflect the local ethnic minority population level, for example, with individual police forces and fire brigades. However, where recruitment takes place at a national level or there is not an obvious local catchment area, then a target of >7% is used, that is a figure which represents the overall national ethnic minority population level.

Recruitment targets are also set for operational and non-operational staff where this differentiation exists. It is important in order to ensure genuine representation that targets apply to both the operational face of a service, that which is typically in day to day contact with the public or local community, and the administrative back up staff who may be less visible.

Many of the service areas are able to set local targets and those for the police, fire and probation services are at Appendices I, II and III respectively. The Prison Service is looking to establish local targets for its prisons and will hold a conference later in the year to discuss the surrounding issues with Governors.

It is intended that the recruitment targets are achieved within a ten year period at the outside. It is expected that these services will be looking towards innovative ways to meet these targets. It is recognised that the recruitment profiles of

these services are bound to vary which is why there is a 10 year agenda. Some service areas will no doubt achieve and sustain representative levels sooner. In order to ensure real progress and maintain a steady momentum, milestones have been set at the three and five year points.

The Home Office and each of its service areas will be considering how to adjust their existing recruitment procedures to make them more attractive to people from ethnic minority groups. They will also be looking to develop imaginative recruitment schemes which overcome the existing reticence within ethnic minority communities to a career in these public services. Positive action schemes may be required to ensure that those from ethnic minority groups are not disadvantaged with recruitment procedures.

Retention Targets

The successful recruitment of ethnic minority staff as described above will be undermined if those staff are not retained. It is important, therefore, that targets are set for the retention of ethnic minority staff, and the rates of retention monitored.

Retention rates across an organisation will vary from year to year depending upon the structural pressures being faced. One organisation might, for example, be going through a period of growth while another contraction. It is not, therefore, practicable for numerical targets to be set. Instead, the target should be about equitable treatment and outcome.

The common theme underpinning the retention targets in the Home Office and its services areas, which are set out in Annex B, is about ensuring that ethnic minority staff do not leave the organisation at a rate greater than the white staff. The structural differences between the five service areas, such as organisational shape and demographic spread, have an impact on how the common theme is represented. For example, the police service will be looking at this in terms of three service bands while the Home Office will itself take an across the board approach. None of the service areas sees a need to differentiate between operational and non-operational staff on this target.

The more detailed approach to retention targets, such as with the police service, will necessarily require some time to put in place. Other less

detailed targets, such as with the Home Office, can be applied immediately. All will require monitoring which will have implications for local and national personnel data collection systems - these are currently being examined.

While the existing targets set out in Annex B look at race equality on a year by year basis, consideration is being given to what might be achievable within a longer time frame. For example, if the focus was to widen to include career length then the target might additionally be framed in terms of comparable periods of service between white and ethnic minority staff.

Career Progression Targets

For an organisation to ensure that all staff are treated on an equal basis, then there must be equality of opportunity to progress successfully throughout that organisation. Discrimination prevents people who deserve it from being promoted. The ethnic minority profiles of the Home Office and its service areas typically show at the moment that ethnic minority staff occupy the more junior positions. For example, there are only six black and Asian police superintendents out of a total field of 1,237 nation-wide.

The aim is to change the differential representation of ethnic minority staff throughout the hierarchy of the Home Office and each of its service areas by the introduction of the targets set out in Annex C. While each set of targets seeks to achieve a parity of progress between ethnic minority and white staff, each organisation has taken an approach which reflects its own particular structure. For example, the Home Office itself will have for each set of promotion boards specific targets based upon the ethnic minority staff representation level in the feeder grade(s) to achieve the targets set out in the appendices of Annex C; whereas the police service has adopted an approach based upon its career structure. In fact, the Home Office recently successfully used such targets in its Administrative/Executive Officer boards.

Ultimately, the overall long term career progression target will be for the representation of ethnic minority staff at each level of an organisation to reflect the overall hierarchy distribution of that organisation. For example, if 15% of white staff are at a particular grade, then the long term target would be for 15% of ethnic

minority staff also to be at that grade. The structure of individual organisations will determine the time-scale over which such representation will be achievable, and there will be a need for regular monitoring to ensure real progress is made.

Senior Civil Service, Chief Officer and Equivalent Ranks

Ethnic minorities are significantly under represented at senior officer level. The resultant imbalance in representation is particularly important as much of the tone of an organisation is set by its senior management. The aim is to rectify this imbalance within the Home Office and its service areas by the targets described in Annex D.

The Government's White Paper "Modernising Government" published in March this year set out its position across the width of the Senior Civil Service. The White Paper argued that the public service must be a part of the society it served and that the under-representation within senior Government of women, people from ethnic minority groups and people with disabilities had to be addressed as a top priority. In doing so the Government set itself a target of increasing ethnic minority representation from 1.6%, as at present, to 3.2%, by 2004/05. In addition, the Government has launched, together with the civil service trade unions, a Joint Charter to address under-representation of ethnic minority staff at service levels.

Different organisations must necessarily adopt different approaches to achieve the same end of proper representation because of their different career progression structures. Entry into the fire service, for example, is only at the fire fighter level and any progression has to develop from that starting point. Efforts to ensure ethnic minority representation at senior officer level might not be as quick there as in other organisations within the Home Office and its service areas. But each organisation will be assessing whether additional and possibly radical new measures are necessary to help make real progress in this area.

Making it work

The setting of recruitment, retention and career progression targets for ethnic minority staff will

achieve nothing unless effective implementation strategies are introduced to achieve the target outcomes. The Home Office and its service areas are already building on existing mechanisms available to put in place appropriate implementation strategies. Annex E sets out what each has in mind.

A key element in each implementation strategy will be the role of the various Home Office Inspectorates and the regular monitoring of performance against the targets. Many of the service areas have set up ethnic minority monitoring or working groups to co-ordinate and take forward the necessary action. The Home Secretary has also set an additional Ministerial priority for the police service for 1999/2000, to increase trust and confidence amongst ethnic minority communities, which came into effect on 14 June. One of the performance indicators will be levels of recruitment, retention and career progression of ethnic minority staff.

The Prison Service has its RESPOND programme which aims to increase recruitment from ethnic minority communities, develop and support ethnic minority staff, ensure fairness in appraisal, promotion and selection (including recruitment) and confront harassment and discrimination. RESPOND also aims to ensure equality of opportunity for ethnic minority prisoners.

Her Majesty's Inspectorate of Probation will this autumn commence a thematic inspection on promoting racial equality; it will determine the extent to which the Probation Service promotes and achieves racial equality in its employment practices and in its work with offenders. It is expected that this exercise will produce recommendations to achieve improvements. Her Majesty's Fire Service Inspectorate is currently undertaking a thematic inspection "Fairness and Equality" which hopes to report shortly.

It will be important to liaise with those in each service with responsibility for maintaining personnel records, to establish whether the data needed for monitoring are currently collected, and if not, how soon they can be made available.

Working Together

There is a recognition that the successful

achievement of the recruitment, retention and career progression targets will require sustained effort to drive them forward and make progress. To help achieve the sought after progress, the Home Office, together with each service area, will be looking to develop these implementation strategies in terms of:

- how individual service areas might learn from each other and from their local communities;
- how there might be more joined up working on these issues between the four Home Office based Inspectorates; and
- how good practice might be spread by involving outside bodies such as the CRE, the Race Relations Forum itself and the private sector.

These are points that the Home Office shall be following up. It will be working in partnership with the service areas and where appropriate drawing on expertise from the private sector - parts of the private sector have a good story to tell on race equality targets, and we will be drawing on that experience wherever possible. In doing so the Home Office will be looking in the context of building up trust and confidence between local communities and these service providers, so that members of the local communities are prepared to join these professions and have the confidence to remain and continue their careers.

Monitoring

As mentioned above the monitoring of outcomes will play a major role in ensuring that real progress is made in achieving the targets set. Within the Home Office individual policy units will be responsible for the delivery of results within their own service areas.

The Home Office Race Equality Unit has established a specific Strategy Team which is tasked with co-ordinating the overall approach to these targets. The Strategy Team will be monitoring progress, and looking to drive forward this initiative; it will be responsible for reporting developments to the Home Secretary and the Race Relations Forum. The Strategy Team will also ensure that a consistent and coherent approach to these targets is adopted.

It is expected that the Home Secretary will wish to produce annual progress reports. However, the inclusion of milestones within the ten year agenda will necessarily require more detailed evaluation at those points.

The Changing World

It will be the responsibility of the Race Equality Unit Strategy Team to take account of any developments which might affect the targets and their achievement. For example, new information from the Labour Force Survey is likely to show that the ethnic minority population has increased from the 7% figure that underpins these targets; the targets will need to reflect such changes. Similarly the forthcoming Census in 2001 might also throw up fresh issues which will have to be considered.

Conclusion

This document describes the Government's recruitment, retention and career progression targets for ethnic minority staff in the Home Office and its service areas. If anyone would like to discuss these issues further then they should contact either Jonathan Lane (0171 273 4486) or Sarah Getgood (0171 273 4487) at the Race Equality Unit Strategy Team, The Home Office, 50 Queen Anne's Gate, London SW1H 9AT. Further information is also available on the Home Office website (www.homeoffice.gov.uk/)

TARGETS FOR ETHNIC MINORITY RECRUITMENT IN THE HOME OFFICE AND ITS SERVICES						
SERVICE	TARGET TYPE (Local¹ or National)²	TARGET	CURRENT REPRESENTATION	MILESTONES FOR MEASURING SUCCESS (YEARS)		
				2002	2004	2009
Non-Prisons Home Office						
London & Croydon offices	Local	25%	20%	23%	25%	25%
Liverpool /Merseyside	Local	2%	1.7%	1.8%	1.9%	2.1%
Immigration Service	National	7%	7%	7%	7%	7%
UK Passport Agency	National	7%	8.6%	8.6%	8.6%	8.6%
Forensic Science Service	National	7%	6.2%	6.5%	7%	7%
Fire Service College	Local	1.7%	0%	0.5%	1.0%	1.7%
Prison Service						
Prison Service	National	7%	3.2%	4.1%	4.9%	7%
Operational	National	7%	2.4%	3.4%	4.4%	7%
Non-operational	National	7%	4.3%	4.9%	5.5%	7%
Police Service						
Police Service	National ³	7%	3.0%	4	4	4
Police Officers	National	7%	2.0%			
Special Constables	National	7%	2.9%			
Civilians	National	7%	5.0%			
Fire Service						
Fire Service	National ⁵	7%	1.2%	2.5%	3.6%	7%
Uniformed	National	7%	1.1%	2.0%	3.2%	7%
Non-uniformed	National	7%	4.3%	6.1%	6.6%	8.0%
Probation Service						
Probation Service	National ⁶	7%	8.3%	8.3%	8.3%	8.3%
Probation Officers	National	7%	8.6%	8.6%	8.6%	8.6%
Non-Probation Officers	National	7%	8.1%	8.1%	8.1%	8.1%

¹ Local target – equivalent to local ethnic minority population (Persons aged 18-54, Labour Force Survey (1996-1998 12 quarters)).

² National target – equivalent to national ethnic minority population (Persons aged 18-54, Labour Force Survey (1996-1998 12 quarters)).

³ With 43 local Force targets (Appendix I)

⁴ Currently awaiting results of consultation with forces.

⁵ With 50 local Brigade targets (Appendix II)

⁶ With 10 regional targets (Appendix III)

Appendix I

POLICE FORCE AREA	ETHNIC POPULATION ¹	TARGET SET	POLICE SERVICE TARGETS FOR THE RECRUITMENT OF ETHNIC MINORITY STAFF							
			POLICE OFFICERS		SPECIAL CONSTABLES		CIVILIANS			
			ALL STAFF	ETHNIC MINORITY	ALL STAFF	ETHNIC MINORITY	ALL STAFF	ETHNIC MINORITY		
	%	NUMBER	%	NUMBER	%	NUMBER	%			
Avon & Somerset	2	2	2965	1.1	584	13	2.2	1507	15	1.0
Bedfordshire	10	10	1050	3.4	175	9	5.1	531	18	3.3
Cambridgeshire	4	4	1285	2.8	308	0	0.0	607	4	0.7
Cheshire	1	1	2054	0.3	416	9	2.1	816	2	0.3
City of London	7 ²	7	792	2.3	69	10	14.5	334	45	13.3
Cleveland	1	1	1453	1.0	136	5	3.7	600	5	0.8
Cumbria	1	1	1153	0.2	210	2	1.0	472	3	0.6
Derbyshire	3	3	1768	2.0	355	6	1.7	843	7	0.8
Devon and Cornwall	1	1	2918	0.2	916	5	0.6	1301	6	0.4
Dorset	1	1	1286	0.5	303	3	1.0	700	0	0.0
Durham	1	1	1559	0.6	159	0	0.0	579	3	0.4
Essex	2	2	2903	1.2	590	2	0.3	1376	16	1.2
Gloucestershire	1	1	1090	1.1	245	0	0.0	461	5	1.0
Greater Manchester	7	7	6890	2.4	567	18	3.2	2768	66	2.4
Hampshire	2	2	3489	0.8	747	12	1.6	1396	17	1.2
Hertfordshire	5	5	1706	1.2	267	6	2.3	886	23	2.6
Humberside	1	1	2003	0.6	289	1	0.4	847	5	0.5
Kent	2	2	3200	0.8	565	8	1.4	1521	16	1.1
Lancashire	5	5	3245	1.2	465	8	1.7	1254	16	1.3
Leicestershire	11	11	1974	4.5	350	22	6.3	849	45	5.2
Lincolnshire	1	1	1159	0.6	233	0	0.0	567	2	0.4
Merseyside	2	2	4270	1.7	463	5	1.1	1422	15	1.0
Metropolitan Police	25	25	26106	3.3	1214	169	13.9	13705	2003	14.6
Norfolk	1	1	1409	1.1	351	6	1.7	689	4	0.6
Northamptonshire	3	3	1162	2.8	262	1	0.4	602	9	1.4
Northumbria	2	2	3802	0.8	360	9	2.5	1440	5	0.4

Appendix I (cont'd)

POLICE FORCE AREA	ETHNIC POPULATION ¹	TARGET SET	POLICE SERVICE TARGETS FOR THE RECRUITMENT OF ETHNIC MINORITY STAFF						SPECIAL CONSTABLES						CIVILIANS	
			POLICE OFFICERS		ETHNIC MINORITY		ALL STAFF	ETHNIC MINORITY		ALL STAFF	ETHNIC MINORITY		ALL STAFF	ETHNIC MINORITY		
			NUMBER	%	NUMBER	%		NUMBER	%		NUMBER	%		NUMBER	%	
North Yorkshire	1	1	1359	7	0.5	302	2	0.7	566	1	0.2	566	1	0.2		
Nottinghamshire	4	4	2269	60	2.6	530	15	2.8	1071	28	2.6	1071	28	2.6		
South Yorkshire	3	3	3170	69	2.2	266	6	2.3	1323	17	1.3	1323	17	1.3		
Staffordshire	2	2	2271	33	1.5	558	9	1.6	901	7	0.7	901	7	0.7		
Suffolk	1	1	1179	15	1.3	402	4	1.0	615	8	1.2	615	8	1.2		
Surrey	4	4	1614	20	1.2	226	4	1.8	768	0	0.0	768	0	0.0		
Sussex	3	3	2923	23	0.8	415	5	1.2	1317	12	0.9	1317	12	0.9		
Thames Valley	5	5	3789	80	2.1	587	28	4.7	1967	43	2.2	1967	43	2.2		
Warwickshire	4	4	923	23	2.5	323	3	0.9	410	7	1.7	410	7	1.7		
West Mercia	2	2	2024	25	1.2	499	2	0.4	1010	6	0.6	1010	6	0.6		
West Midlands	16	16	7215	300	4.2	784	55	7.0	3035	200	6.6	3035	200	6.6		
West Yorkshire	9	9	5065	134	2.6	590	43	7.3	2433	41	1.7	2433	41	1.7		
Wiltshire	1	1	1147	12	1.0	176	1	0.6	538	4	0.7	538	4	0.7		
Dyfed-Powys	1	1	1013	1	0.1	237	0	0.0	360	0	0.0	360	0	0.0		
Gwent	1	1	1254	13	1.0	114	0	0.0	510	6	1.2	510	6	1.2		
North Wales	1	1	1395	2	0.1	336	1	0.3	495	1	0.2	495	1	0.2		
South Wales	2	2	2945	31	1.1	360	4	1.1	1241	3	0.2	1241	3	0.2		

¹ Persons aged 18-54, Labour Force Survey (1996-1998 12 quarters).

² Census 1991 (No figure available from Labour Force Survey).

FIRE SERVICE TARGETS FOR THE RECRUITMENT OF ETHNIC MINORITY STAFF									
FIRE BRIGADE AREA	ETHNIC POPULATION ¹	TARGET SET ²	UNIFORMED			NON-UNIFORMED			
			ALL STAFF	ETHNIC MINORITY		ALL STAFF	ETHNIC MINORITY		
				NUMBER	NUMBER		%	NUMBER	NUMBER
Avon	3	3	893	6	0.7	90	1	1.1	
Bedfordshire & Luton ³	10	7	470	9	2.0	64	2	3.0	
Berkshire	7	7	612	9	1.5	84	2	2.4	
Buckinghamshire	5	5	541	3	0.6	60	0	0.0	
Cambridgeshire ³	4	3	629	7	1.1	93	0	0.0	
Cheshire	1	1	842	4	0.5	88	0	0.0	
Cleveland	1	3	734	2	0.3	82	1	1.2	
Cornwall	0	0.4	619	2	0.3	66	1	1.5	
Cumbria	1	0.6	735	2	0.3	54	0	0.0	
Derbyshire	3	3	885	12	1.4	58	1	1.7	
Devon	1	0.7	1242	5	0.4	98	0	0.0	
Dorset	1	1	618	5	0.8	66	0	0.0	
Durham & Darlington	1	1	590	1	0.2	56	0	0.0	
Essex ³	2	1.4	1431	1	0.1	171	0	0.0	
Gloucestershire	1	2	529	4	0.8	70	2	2.9	
Hampshire	2	2	1512	3	0.2	190	1	0.5	
Hereford & Worcester	1	1	705	2	0.3	66	1	1.5	
Hertfordshire	5	5	863	4	0.5	94	1	1.1	
Humberside	1	2	1029	0	0.0	87	0	0.0	
Kent	2	3	1714	4	0.2	196	1	0.5	
Lancashire	5	5	1401	7	0.5	148	1	0.7	
Leicestershire	11	10	735	7	1.0	61	4	6.6	
Lincolnshire	1	1	649	3	0.5	40	1	2.5	
Norfolk	1	0.4	746	5	0.7	74	0	0.0	
Northamptonshire	3	3	531	4	0.8	48	2	4.2	
Northumberland ³	1	0.7	395	0	0.0	29	0	0.0	

Appendix II (cont'd)

FIRE SERVICE TARGETS FOR THE RECRUITMENT OF ETHNIC MINORITY STAFF									
FIRE BRIGADE AREA	ETHNIC POPULATION ¹	TARGET SET ²	UNIFORMED			NON-UNIFORMED			
			ALL STAFF	ETHNIC MINORITY		ALL STAFF	ETHNIC MINORITY		
				NUMBER	NUMBER		%	NUMBER	NUMBER
Nottinghamshire	4	4	943	5	0.5	94	0	0.0	
Oxfordshire	4	4	510	1	0.2	61	0	0.0	
Isle of Scilly ⁴	0	0	42	0	0.0	2	0	0.0	
Shropshire	1	1	493	0	0.0	40	1	2.5	
Somerset ³	1	0.8	567	1	0.2	62	1	1.6	
Staffordshire ³	2	1	862	12	1.4	141	2	1.4	
Suffolk	1	1	701	0	0.0	111	3	2.7	
Surrey	4	4	888	2	0.2	105	1	1.0	
East Sussex	3	3	706	3	0.4	87	0	0.0	
West Sussex	3	4	772	1	0.1	89	0	0.0	
Warwickshire	4	5	528	6	1.1	73	2	2.7	
Isle of Wight	1	1	232	0	0.0	23	0	0.0	
Wiltshire	1	2	545	6	1.1	62	0	0.0	
North Yorkshire ³	1	1	761	2	0.3	77	1	1.3	
London	25	25	6048	248	4.1	1101	281	25.5	
Greater Manchester	7	7	2301	16	0.7	395	5	1.3	
Merseyside	2	2	1550	9	0.6	315	2	0.6	
Tyne & Wear	2	2	1089	0	0.0	217	0	0.0	
West Midlands	16	16	2131	70	3.3	451	25	5.5	
South Yorkshire	3	4	992	12	1.2	106	2	1.9	
West Yorkshire	9	9	1970	14	0.7	225	4	1.8	
Mid & West Wales	1	0.5	1192	1	0.1	147	1	0.7	
North Wales ³	1	0.7	877	0	0.0	84	0	0.0	
South Wales	1	1	1392	5	0.4	178	2	1.1	

¹ Persons aged 18-54, Labour Force Survey (1996-98 12 quarters).

² Uniformed and non-uniformed combined.

³ Achieve wholetime representation but not retained.

⁴ No targets set: no ethnic minority population.

Appendix III

PROBATION SERVICE TARGETS FOR THE RECRUITMENT OF ETHNIC MINORITY STAFF									
AREA	ETHNIC POPULATION ¹	TARGET SET ²	PROBATION OFFICER			NON-PROBATION OFFICER			
			ALL STAFF	ETHNIC MINORITY	%	ALL STAFF	ETHNIC MINORITY	%	
	%	%	NUMBER	NUMBER	%	NUMBER	NUMBER	%	
North East	1.4	1.4	433	7	1.6	584	3	0.5	
North West	4.3	5.4	1145	84	7.3	1588	58	3.7	
Yorks & Humberside	5.1	5.1	769	46	6.0	1150	49	4.3	
East Midlands	4.7	7.2	523	42	8.0	714	47	6.6	
West Midlands	9.0	11.6	799	109	13.6	1191	122	10.2	
Eastern	3.4	4.9	542	19	3.5	727	43	5.9	
London	25.0	26.5	1181	259	21.9	1325	405	30.6	
South East	3.4	3.6	906	32	3.5	1269	46	3.6	
South West	1.3	2.6	573	15	2.6	809	21	2.6	
Wales	1.4	1.7	390	8	2.1	532	8	1.5	

¹ Persons aged 18-54, Labour Force Survey (1996-98 12 quarters).

² Target identified refers to the total staff in each region.

TARGETS FOR ETHNIC MINORITY RETENTION IN THE HOME OFFICE AND ITS SERVICES			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Non-Prisons Home Office			
London & Croydon offices Liverpool/Merseyside Immigration Service UK Passport Agency Forensic Science Service Fire Service College	Equal rates of resignations by grade for ethnic minority staff as for white staff.	Introduce now.	Annual Monitoring
Prison Service			
	Equal rates of resignations by grade for ethnic minority staff as for white staff.	2000/01	Exit survey Enhancement of personnel IT system
Police Service			
	Equal rates of resignations and dismissals for ethnic minority staff as for white staff, within the following three bands: 6 months-2 years service; 2-5 years service; 5-10 years service.	2002 (within 3 years)	Exit polls to be conducted by personnel dept. Annual monitoring
Fire Service			
	Equal rates of resignations and dismissals for ethnic minority staff as for white staff, within the following three bands: 6 months-2 years service; 2-5 years service; 5-10 years service.	2002	Exit polls conducted by brigades
Probation Service			
	Equal rates of resignations by grade for ethnic minority staff as for white staff.	1999/2000	Monitoring through the annual staffing statistics return.

Annex C

TARGETS FOR ETHNIC MINORITY PROGRESSION IN THE HOME OFFICE AND ITS SERVICES			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Home Office Non-Prisons¹			
London & Croydon offices ² Liverpool/Merseyside Immigration Service ³ UK Passport Agency ⁴ Forensic Science Service ⁵ Fire Service College	Specific targets have been set for promotion to be at or exceed percentage in feeder grades across the whole range of grades within their services.	The aim is to achieve comparable representation rates within 10 years with identified milestones.	Annual monitoring exercise.
Prison Service¹			
	Comparable promotion rates and appraisal markings between ethnic minority and white staff. Setting of promotion/career progression targets for ethnic minority staff.	Targets to be set next year for promotion and recruitment.	Monitoring of promotion/selection board and assessment centre results and appraisal assessments.

¹ Appendix I² Appendix II³ Appendix III⁴ Appendix IV⁵ Appendix V

TARGETS FOR ETHNIC MINORITY PROGRESSION IN THE HOME OFFICE AND ITS SERVICES			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Police Service	The % of ethnic minority officers with 5-10 years service at sergeant and above is equal to the % of white officers with 5-10 years service at sergeant and above.	From 2001	Positive action programmes for ethnic minority officers. Annual checks.
	The % of ethnic minority officers with 5-15 years service at inspector and above is equal to the % of white officers with 5-15 years service at inspector and above.	From 2003	
	The % of ethnic minority officers with 10-15 years service at chief inspector and above is equal to the % of white officers with 10-15 years service at chief inspector and above.	From 2005	
	The % of ethnic minority officers with 10-20 years service at superintendent and above is equal to the % of white officers with 10-20 years service at superintendent and above. This parity should then continue subject to annual checks.	From 2007	
	Ethnic minority officers are represented in each specialist area in each force in proportion to their level of representation within the force.	From 2001	

TARGETS FOR ETHNIC MINORITY PROGRESSION IN THE HOME OFFICE AND ITS SERVICES			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Fire Service	The % of ethnic minority officers with 5-10 years service at leading firefighter and above is equal to the % of white officers with 5-10 years service at leading firefighter and above.	From 2001	Annual checks.
	The % of ethnic minority officers with 5-15 years service at sub officer and above is equal to the % of white officers with 5-15 years service at sub officer and above.	From 2003	
	The % of ethnic minority officers with 10-15 years service at station officer and above is equal to the % of white officers with 10-15 years service at station officer and above.	From 2005	
	The % of ethnic minority officers with 10-20 years service at divisional officer and above is equal to the % of white officers with 10-20 years service at divisional officer and above.	From 2007	
Probation Service ⁶	Specific targets have been set for promotion, based on equal progression rates between ethnic minority and white staff from feeder grades with the aim of achieving comparable representation rates at all grades.	Immediate with milestones in 2002, 2004, and 2009.	Monitoring through the annual staffing statistics return.

⁶ Appendix VI

HOME OFFICE					
TARGETS FOR ETHNIC MINORITY REPRESENTATION IN THE SENIOR CIVIL SERVICE					
GRADE BAND	CURRENT BASELINE	2002	2004	2007	2009
SENIOR CIVIL SERVICE	1%	2.1%	3.2%*	3.2%*	3.2%*

* Based on Cabinet Office service-wide targets

NOTE: All Home Office (core, Agency and Non Departmental Public Body) generalist admin Senior Civil Service Staff. Baseline figure does not include specialisms within Senior Civil Service.

NON PRISONS HOME OFFICE TARGETS FOR ETHNIC MINORITY REPRESENTATION BY GRADE IN LONDON AND CROYDON ("60 MINUTE AREA")					
GRADE BAND	CURRENT BASELINE	2002	2004	2007	2009
GRADE 6/7	1%	2%	3%	4%	5%
HEO/HEOD/SEO	5%	8%	11%	16%	20%
AA/AO/EO	28%	(30%)#	(33%)#	(33%)#	(33%)#

Not a target as projected representation is higher than representation in local population

NOTES

- The staff covered by models on which these figures were based include:
 - All core Home Office generalist admin staff from AA to SEO
 - All Home Office non-Agency generalist admin Grades 7s and 6s
 - IND generalist admin staff working in the 60 minute area

**NON PRISONS HOME OFFICE
TARGETS FOR ETHNIC MINORITY REPRESENTATION BY GRADE IN THE
IMMIGRATION SERVICE**

GRADE	CURRENT BASELINE	2002	2004	2007	2009
INSPECTOR	1%	2%	2.5%	4%	7%
CHIEF IMMIGRATION OFFICER	2%	3%	4%	5%	7%
IMMIGRATION OFFICER	13%	(13%)#	(13%)#	(13%)#	(13%)#

Not a target as projected representation is higher than representation in national population

NOTES

1. There is very slow progression in the Immigration Service with few promotion boards
2. Ethnic minority staff tend not to have not been long in the IO grade

NON PRISONS HOME OFFICE TARGETS FOR ETHNIC MINORITY REPRESENTATION BY GRADE IN UK PASSPORT AGENCY					
GRADE	CURRENT BASELINE	2002	2004	2007	2009
SEO AND 7	0	3.5%	7.5%	7.5%	11%
HEO	9%	11%	13%	16%	18%

NOTES

1. UKPA has only 2 Senior Civil Service posts.
2. There are a total of 27 posts at SEO and Grade 7 level.
3. Figures will need to be revised in due course to take into account the establishment of the Criminal Records Bureau on Merseyside next year.

**NON PRISONS HOME OFFICE
TARGETS FOR ETHNIC MINORITY REPRESENTATION BY GRADE IN
THE FORENSIC SCIENCE SERVICE**

GRADE	CURRENT BASELINE	2002	2004	2007	2009
GRADE 7	1.25%	2.5%	4%	5%	7%
HEO	4.5%	5%	6.5%	7.5%	9%

Appendix VI

PROBATION SERVICE TARGETS FOR ETHNIC MINORITY REPRESENTATION BY GRADE				
GRADE	CURRENT BASELINE	2002	2004	2009
Deputy Chief Probation Officer (DCPO)/Chief Probation Officer (CPO)	0.0%	1.4%	2.9%	4.3%
ACPO/Area Manager	1.9%	3.6%	3.6%	5.2%
Senior Probation Officer	3.4%	5.1%	5.5%	6.5%

NOTE

No allowance has been made in these targets for structural changes arising from the Prison Probation Review.

TARGETS FOR ETHNIC MINORITY PROGRESSION IN THE HOME OFFICE AND ITS SERVICES FOR SENIOR CIVIL SERVICE, CHIEF OFFICER AND EQUIVALENT RANKS			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Home Office Non-Prisons			
London & Croydon offices Liverpool/Merseyside Immigration Service UK Passport Agency Forensic Science Service Fire Service College	Across the board: 3.2% of the senior civil service will be from ethnic minority backgrounds.	2004/2005	Succession planning and annual monitoring.
Prison Service			
	Targets to be set next year for promotion and recruitment.	2000/2001	Numbers of staff recruited via Accelerated Promotion and Direct Entry Schemes. Monitoring of promotion/selection boards and assessment centres.
Police Service			
	The % of ethnic minority officers with 15-25 years service at Assistant Chief Constable and above is equal to the % of white officers with 15-25 years service at Assistant Chief Constable and above. The % of ethnic minority applicants accepted on to the strategic command course is equal to the % for white applicants accepted on the course.	2009 2000	Positive action programmes for ethnic minority officers. Annual checks.

Annex D (Cont'd)

TARGETS FOR ETHNIC MINORITY PROGRESSION IN THE HOME OFFICE AND ITS SERVICES FOR SENIOR CIVIL SERVICE, CHIEF OFFICER AND EQUIVALENT RANKS			
SERVICE	TARGET	TIMESCALE FOR INTRODUCTION	MONITORING
Fire Service	The % of ethnic minority officers with 15-25 years service at Assistant Chief Officer and above is equal to the % of white officers with 15-25 years service at Assistant Chief Officer and above.	2019	Fire service is single tier entry with no fast track. It takes at least 20 years, and usually more, to progress from firefighter to principal officer rank. Under the present system equivalent percentage is therefore not a possibility until 2019. A working group is looking at the single tier entry system. Close monitoring at lower ranks will ensure progress is tracked.
Probation Service	Specific targets have been set for promotion, based on equal progression rates between ethnic minority and white staff from feeder grades with the aim of achieving comparable representation rates at all grades.	Immediate with milestones in 2002, 2004 and 2009.	Monitoring through the annual staffing statistics return.

TARGETS FOR ETHNIC MINORITIES IN THE HOME OFFICE AND ITS SERVICES: IMPLEMENTATION		
SERVICE	IMPLEMENTATION/STRATEGY	TIMESCALE FOR INTRODUCTION
Home Office Non-Prisons		
London & Croydon offices Liverpool/Merseyside Immigration Service UK Passport Agency Forensic Science Service Fire Service College	Across the board: strategy set out in Ethnic Minority Monitoring Group (EMMG) Race Equality Action Plan. All areas and Directorates developing action plans to be monitored by Race Equality Steering Group.	Introduced now.
Prison Service		
	Appoint a Race Equality Adviser Local recruitment targets for each prison establishment Working to achieve full compliance with PSO 2800 Conference for ethnic minority staff Network for ethnic minority staff Review of harassment complaints procedure Establish progression targets and monitoring procedures	October 1999 April 2000 April 2000 October 1999 March 2000 April 2000 April 2000
Police Service		
	Additional Ministerial priority to increase trust and confidence in policing amongst ethnic minority communities. National strategy for recruitment, retention and progression. Role of HMIC - annual inspection process Macpherson Action Plan. Working group established as part of April conference	Came into effect on 14 June 1999 Introduce by mid-August 1999 Annual

TARGETS FOR ETHNIC MINORITIES IN THE HOME OFFICE AND ITS SERVICES: IMPLEMENTATION		
SERVICE	IMPLEMENTATION/STRATEGY	TIMESCALE FOR INTRODUCTION
Fire Service	<p>Publication of thematic inspection report</p> <p>Examining brigade equal opps policies and training and issuing best practice.</p> <p>Issuing guidance on ethnic monitoring procedures for recruitment, retention and career progression</p> <p>Annual brigade re-inspections to assess progress</p> <p>Examining findings of research into the image of the fire service</p> <p>Development of bias-free recruit selection procedures</p>	<p>August 1999</p> <p>March 2000</p> <p>August 1999</p> <p>August 2000 onward</p> <p>September 1999</p> <p>June 2000</p>
Probation Service	<p>A working party comprising ACOP, CPC, the Association of Black Probation Officers (ABPO) and the National Association of Asian Probation Staff (NAAPS) is currently working on an action plan. This is intended to achieve at all levels and in every probation region a degree of ethnic minority staff representation that has regard, amongst other considerations, to the ethnicity of the local population and the requirements of effective service delivery. The action plan will focus in particular on opportunities to promote better progression of ethnic minority staff from basic grade to middle and senior management levels.</p> <p>The proposed action plan is due to be completed by July 1999, for ministerial approval. Recommendations will cover recruitment, retention and progression as well as policy, communication and cultural issues. Draft recommendations in the area of progression for example include recommendations for the inclusion of ethnic minority members on all selection boards, the establishment of a mentoring system for ethnic minority staff, development of appropriate support frameworks for ethnic minority staff and managers and the identification and dissemination of best practice in this area.</p>	<p>Action plan to be completed by July 1999.</p>



C99/11367/04832

(F)



The Rt Hon Jack Straw MP
Home Office
50 Queen Anne's Gate
LONDON
SW1H9AT

23 July 1999

Dear Jack

RACE RELATIONS ACT (AMENDMENT) BILL

Thank you for copying to me your letter of 20 July to John Prescott seeking agreement to revised proposals following colleagues' comments on your letter of 16 June. I agree to your proposals as they now stand.

The question of direct and indirect discrimination is a sensitive one; I believe that the requirement to promote equality which you now propose will give Departments the freedom to develop policies without the fear of unforeseen and far reaching effects, which might have resulted from a requirement that there should be no indirect discrimination.

Thank you for confirming that it is your intention that the legislation should be capable of extension other publicly - funded bodies, for example Non Departmental Public Bodies, by means of Orders.

- ▶ I am copying this letter to the recipients of yours.

Yours ever
Chris

CHRIS SMITH

From: David North

Date: 23 July 1999

PRIME MINISTER *W 24/*

cc: Liz Lloyd

RACE RELATIONS ACT (AMENDMENT) BILL

1. Liz minuted you recently about Jack's plans, in light of the McPherson report, to extending the Race Relations Act (RRA) to public bodies. You responded on two points:

- you thought the proposal to make Chief Police Officers vicariously liable for racial discrimination by their police officers might be a step too far;
- you wanted to see a Regulatory Impact Assessment (RIA) of Jack's proposal to extend the EU Burden of Proof Directive to race cases before we gave any agreement to it.

Vicarious liability

2. Jack's Office have now explained that all employers covered by the RRA are vicariously liable for racial discrimination by their employees. But this would not apply to the police because, technically, police officers are office-holders, not employees. So Jack's proposal - to which the Government has already committed itself in response to McPherson - would put Chief Police Officers in the same position as other employers under the RRA. Jack concedes that it would probably increase the number of cases brought (because people are more likely to bring a case against the Chief Officer rather than an individual policeman). But he also points out that ACPO said "there does not appear to be any reason of principle why vicarious liability should not be thus extended".

3. Are you now content with this proposal?

Burden of Proof

4. Jack has since withdrawn his proposal to include a provision on this in the Third Session Bill. We will see an RIA before any decision is taken on whether we should extend implementation of the Directive to include race cases.

David

DAVID NORTH

From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

20 JUL 1999

Rob Read Esq
10 Downing Street
LONDON
SW1A 2AA

cc: DN
PU

David N.

will you put this
to TB?

Dear Rob,

RACE RELATIONS ACT (AMENDMENT) BILL

Thank you for your letter of 13 July raising two concerns about the Home Secretary's letter of 16 June to the Deputy Prime Minister seeking agreement to his proposals for the above.

On the details of the proposal to make Chief Officers of Police vicariously liable for racial discrimination by officer, the proposal was made by the Stephen Lawrence Inquiry and the Government accepted it. It is intended to plug a gap in the current legislation that arises from police officer's status as office holders rather than employees.

Under the RRA as it stands (section 32), all employers are vicariously liable for racial discrimination by their employees. Proceedings may be brought against an employer for an act done by his employee, though it is a defence for the employer if he can prove that he took reasonably practicable steps to prevent the employee from doing the act. But because police officers are office-holders and not employees, chief officers of police are not vicariously liable under the RRA for acts of racial discrimination done by police officers.

The vicarious liability of chief officers of police for the wrongful acts of police officers is generally dealt with by section 88 of the Police Act 1996. But the courts have found that this provision cannot be relied upon in relation to claims brought under the RRA.

The practical effect of the proposed provisions will bring the position for police officers into line with the position for all other employees under the RRA, by

allowing individuals to bring proceedings for racial discrimination against the "employer" (the chief officer of police) as well as, but most likely instead, of the "employee" (the police officer). It is possible that this new provision will encourage – at least initially – a greater number of cases to be brought against the police than would otherwise have been the case, with individuals bringing cases against the chief officer that they would not have bothered bringing against the discriminator himself. The extent of this effect is hard to predict: The baseline data is that there were an average of about three complaints per year substantiated against the police in England and Wales between 1994 and 1998, compared with about 300 complaints made to the PCA in 1998/99 overall. There are, however, a large number of civil cases against the police which may have a racial element.

Regarding ACPO's view of the proposal, their response to our consultation on the Commission for Racial Equality's recommendation was "This is not opposed... there does not appear to be any reason of principle why vicarious liability should not be thus extended." We understand that this remains their position.

Finally, on the Burden of Proof provisions, as you point out the Home Secretary has withdrawn this proposal for inclusion in the third Session Bill. A Regulatory Impact Assessment will be carefully considered.

I am copying this letter to members of HS and LEG, other Cabinet members and to Sir Richard Wilson and First Parliamentary Counsel.

Regards,

Clare

CLARE SUMNER

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Finally, on the Burden of Proof provisions, as you point out the Home Secretary has withdrawn this proposal for inclusion in the third Session Bill. A Regulatory Impact Assessment will be carefully considered.

I am copying this letter to members of HS and LEG, other Cabinet members and to Sir Richard Wilson and First Parliamentary Counsel.

Reyes,

Clare

CLARE SUMNER

cc ~~LT~~ (1st 3 pages)
v rch prc.

DN

From: Liz Lloyd
Date: 28 June 1999

Prime Minister

cc: David North
David Miliband
Jeremy Heywood
Sharon White

(F)

Race Relations (Amendment) Bill

In the light of the McPherson report, the government accepted the need to extend the Race Relations Act to public bodies.

Jack is also seeking to use this opportunity to add two proposals.

On the main point, Jack suggests that we use a list approach rather than a functional approach in defining public bodies. This is the same list as is used in the FOI Bill, and I think gives more certainty than a functional definition.

He also suggests that the general provision should be confined to direct discrimination and not extended to indirect discrimination - this must be right.

He also accepts the McPherson recommendation that Chief Officers of Police should be made vicariously liable for racial discrimination by police officers. This would make the regime equivalent to that for employers being responsible for the actions of their employees (e.g. local government). With explanation I think this is acceptable, although it seems quite far-reaching.

Not too much

More details
- approval
- impact.

On the new proposals, one is uncontroversial and is needed for ECHR compatibility reasons, to establish an appeals tribunal for claims which raise

issues of national security. [Currently the Race Relations Act provides that an act of racial discrimination is not unlawful if carried out for the purpose of safeguarding national security on the basis of the Home Sec's certificate. There is no right of appeal. The Home Office believes this is incompatible with Article 6 of the ECHR. I think this is right.

There is however, one measure which the Home Office believe will be uncontroversial, but I think will receive attention. That is the proposal to extend the EC Burden of Proof Directive (BPD) to race cases.

The UK must implement the BPD by July 2001 for sex discrimination cases in employment law. We can do this without primary legislation.

There are strong reasons on the grounds of consistency for having the same burden of proof regime and the same definition of indirect discrimination for race and sex discrimination cases.

However, changing the burden of proof so that the respondent has to prove that there has been no breach of the principle of equal treatment will not be welcomed by all in the business community.

The Regulatory Impact Assessment has not yet been completed.

There is another read across here. The government is preparing its response to the Better Regulation Taskforce's Report on Discrimination, and we need to make sure that we have the balance of the package thought through.

I think it would be useful to indicate that we cannot be in a position to support including this in the legislation until a regulatory impact assessment has been undertaken and we have had a chance to balance this proposal against others.

*Liz I agree strongly.
The matter not yet
covered anyway.*

(F)

From: David North

Date: 23 July 1999

PRIME MINISTER

cc: Liz Lloyd

RACE RELATIONS ACT (AMENDMENT) BILL

1. Liz minuted you recently about Jack's plans, in light of the McPherson report, to extending the Race Relations Act (RRA) to public bodies. You responded on two points:

- you thought the proposal to make Chief Police Officers vicariously liable for racial discrimination by their police officers might be a step too far;
- you wanted to see a Regulatory Impact Assessment (RIA) of Jack's proposal to extend the EU Burden of Proof Directive to race cases before we gave any agreement to it.

Vicarious liability

2. Jack's Office have now explained that all employers covered by the RRA are vicariously liable for racial discrimination by their employees. But this would not apply to the police because, technically, police officers are office-holders, not employees. So Jack's proposal - to which the Government has already committed itself in response to McPherson - would put Chief Police Officers in the same position as other employers under the RRA. Jack concedes that it would probably increase the number of cases brought (because people are more likely to bring a case against the Chief Officer rather than an individual policeman). But he also points out that ACPO said "there does not appear to be any reason of principle why vicarious liability should not be thus extended".

3. Are you now content with this proposal?

Burden of Proof

4. Jack has since withdrawn his proposal to include a provision on this in the Third Session Bill. We will see an RIA before any decision is taken on whether we should extend implementation of the Directive to include race cases.

David

DAVID NORTH

I am not happy with it but if he has committed himself to it, then ok

Received: 20/ 7/99 9:52;
20/07/99 09:46 FAX 01712733965

01712733965 -> LINE 2; Page 1

HOME SECRETARY'S OFFICE -> PRIME MINISTER

001/005

From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

20 JUL 1999

Rob Read Esq
10 Downing Street
LONDON
SW1A 2AA

cc: DN
~~PO~~

David N.
will you put this
+ TB?

Dear Rob,

RACE RELATIONS ACT (AMENDMENT) BILL

Thank you for your letter of 13 July raising two concerns about the Home Secretary's letter of 16 June to the Deputy Prime Minister seeking agreement to his proposals for the above.

On the details of the proposal to make Chief Officers of Police vicariously liable for racial discrimination by officer, the proposal was made by the Stephen Lawrence Inquiry and the Government accepted it. It is intended to plug a gap in the current legislation that arises from police officer's status as office holders rather than employees.

Under the RRA as it stands (section 32), all employers are vicariously liable for racial discrimination by their employees. Proceedings may be brought against an employer for an act done by his employee, though it is a defence for the employer if he can prove that he took reasonably practicable steps to prevent the employee from doing the act. But because police officers are office-holders and not employees, chief officers of police are not vicariously liable under the RRA for acts of racial discrimination done by police officers.

The vicarious liability of chief officers of police for the wrongful acts of police officers is generally dealt with by section 88 of the Police Act 1996. But the courts have found that this provision cannot be relied upon in relation to claims brought under the RRA.

The practical effect of the proposed provisions will bring the position for police officers into line with the position for all other employees under the RRA, by

allowing individuals to bring proceedings for racial discrimination against the "employer" (the chief officer of police) as well as, but most likely instead, of the "employee" (the police officer). It is possible that this new provision will encourage – at least initially – a greater number of cases to be brought against the police than would otherwise have been the case, with individuals bringing cases against the chief officer that they would not have bothered bringing against the discriminator himself. The extent of this effect is hard to predict: The baseline data is that there were an average of about three complaints per year substantiated against the police in England and Wales between 1994 and 1998, compared with about 300 complaints made to the PCA in 1998/99 overall. There are, however, a large number of civil cases against the police which may have a racial element.

Regarding ACPO's view of the proposal, their response to our consultation on the Commission for Racial Equality's recommendation was "This is not opposed... there does not appear to be any reason of principle why vicarious liability should not be thus extended." We understand that this remains their position.

Finally, on the Burden of Proof provisions, as you point out the Home Secretary has withdrawn this proposal for inclusion in the third Session Bill. A Regulatory Impact Assessment will be carefully considered.

I am copying this letter to members of HS and LEG, other Cabinet members and to Sir Richard Wilson and First Parliamentary Counsel.

Regards,

Clare

CLARE SUMNER

RESTRICTED - POLICY*cc list (list 3 pages)**v re pte.**DN***From: Liz Lloyd**
Date: 28 June 1999**Prime Minister****cc: David North**
David Miliband
Jeremy Heywood
Sharon White*(F)***Race Relations (Amendment) Bill**

In the light of the McPherson report, the government accepted the need to extend the Race Relations Act to public bodies.

Jack is also seeking to use this opportunity to add two proposals.

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He also suggests that the general provision should be confined to direct discrimination and not extended to indirect discrimination - this must be right.

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*Man details
- appo vms
- impact.*

On the new proposals, one is uncontroversial and is needed for ECHR compatibility reasons, to establish an appeals tribunal for claims which raise

RESTRICTED - POLICY

RESTRICTED - POLICY

- 2 -

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There is however, one measure which the Home Office believe will be uncontroversial, but I think will receive attention. That is the proposal to extend the EC Burden of Proof Directive (BPD) to race cases.

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However, changing the burden of proof so that the respondent has to prove that there has been no breach of the principle of equal treatment will not be welcomed by all in the business community.

The Regulatory Impact Assessment has not yet been completed.

There is another read across here. The government is preparing its response to the Better Regulation Taskforce's Report on Discrimination, and we need to make sure that we have the balance of the package thought through.

RESTRICTED - POLICY

RESTRICTED - POLICY

I think it would be useful to indicate that we cannot be in a position to support including this in the legislation until a regulatory impact assessment has been undertaken and we have had a chance to balance this proposal against others.

Liz
...
...



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

20 JUL 1999

→ ~~DA~~
(f)

Rob Read Esq
10 Downing Street
LONDON
SW1A 2AA

Dear Rob,

RACE RELATIONS ACT (AMENDMENT) BILL

Thank you for your letter of 13 July raising two concerns about the Home Secretary's letter of 16 June to the Deputy Prime Minister seeking agreement to his proposals for the above.

On the details of the proposal to make Chief Officers of Police vicariously liable for racial discrimination by officer, the proposal was made by the Stephen Lawrence Inquiry and the Government accepted it. It is intended to plug a gap in the current legislation that arises from police officer's status as office holders rather than employees.

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The practical effect of the proposed provisions will bring the position for police officers into line with the position for all other employees under the RRA, by

allowing individuals to bring proceedings for racial discrimination against the "employer" (the chief officer of police) as well as, but most likely instead, of the "employee" (the police officer). It is possible that this new provision will encourage – at least initially – a greater number of cases to be brought against the police than would otherwise have been the case, with individuals bringing cases against the chief officer that they would not have bothered bringing against the discriminator himself. The extent of this effect is hard to predict: The baseline data is that there were an average of about three complaints per year substantiated against the police in England and Wales between 1994 and 1998, compared with about 300 complaints made to the PCA in 1998/99 overall. There are, however, a large number of civil cases against the police which may have a racial element.

Regarding ACPO's view of the proposal, their response to our consultation on the Commission for Racial Equality's recommendation was "This is not opposed... there does not appear to be any reason of principle why vicarious liability should not be thus extended." We understand that this remains their position.

Finally, on the Burden of Proof provisions, as you point out the Home Secretary has withdrawn this proposal for inclusion in the third Session Bill. A Regulatory Impact Assessment will be carefully considered.

I am copying this letter to members of HS and LEG, other Cabinet members and to Sir Richard Wilson and First Parliamentary Counsel.

Regards,
Clare

CLARE SUMNER



→ ~~DN~~

Top: CR
(cc: DJW
VJ)

QUEEN ANNE'S GATE LONDON SW1H 9AT

20 JUL 1999

(F)

The Rt Hon John Prescott MP
Deputy Prime Minister and
Secretary of State for the Environment,
Transport and the Regions
Eland House
Bressenden Place
LONDON SW1E 5DU

John Prescott

RACE RELATIONS ACT (AMENDMENT) BILL

I am writing further to my letter to you of 16 June setting out my detailed proposals for a third Session Race Relations (amendment) Bill. I am grateful for the comments I received from Richard Caborn, Derry Irvine, David Blunkett, John Reid, George Robertson, Frank Dobson, Chris Smith, Mo Mowlam, Alistair Darling, Margaret Jay, Stephen Byers, Alun Michael and John Morris. No 10 has also commented and my Private Office will be replying separately to cover the specific points that were raised.

Colleagues appear broadly content with my main proposals to extend the Act to public services through the introduction of a general provision and with my proposal to use a list approach to defining public authorities for the purposes of the Act, based on the draft Freedom of Information Bill. But some opposed my request to include two non-Lawrence provisions in the Bill.

On the non-Lawrence provisions, David Blunkett and Margaret Jay opposed including provisions to bring the Race Relations Act (RRA) into line with the EC Burden of Proof Directive during the Third Session. David said, he, Margaret Jay, Jack Cunningham and Mike O'Brien agreed on 24 June that it should be a shared priority for our Departments to seek to tackle issues of consistency in a joint fourth Session equalities Bill. On this basis, I agreed in my letter of 9 July to Jack (in the context of the Government's response to the Better Regulation Task Force) that I would withdraw my proposal for the Burden of Proof issue to be addressed in the third Session and I do so now.

David Blunkett and Stephen Byers commented on my proposal to set up a national security tribunal to remedy the ECHR-incompatibility in the existing RRA. They proposed that employment cases brought under the RRA should instead be dealt with through an amendment to the Employment Relations Bill. In my response to Stephen of 2 July, I agreed that the RRA should be amended as he proposed, subject to my officials resolving their outstanding concerns about the ECHR-compatibility of his approach. There will, though, remain a need for me to make provision in my Bill to deal with non-employment cases under the RRA, in order to remove altogether the provisions relating to conclusive national security certificates that were found in the case of *Tinelly and McElduff vs UK* to be incompatible with the ECHR. For the sake of consistency, it would seem sensible for me to base these provisions on those in the Employment Relations Bill.

On my main proposals, Alun Michael expressed concern that limiting the proposed general provision to direct discrimination by public authorities would leave the Government vulnerable to criticism. I am sensitive to this concern but I think we must be prepared to argue this one out on its merits. Applying the new provision to all acts of indirect discrimination by public authorities would have uncertain and potentially far-reaching effects on areas of core Government policy. Any policy or practice which has a different impact on different racial groups could be challenged, and potentially found unlawful, in the courts. That would include any policy operating on the basis of requirements or conditions relating, for example, to age, address, income or marital status, because different ethnic groups have different profiles across these areas. Ironically, some of the policies that are helping members of ethnic minorities the most – such as the New Deal for Young People – would probably be the most vulnerable to challenge.

In my view, the better way of addressing the kind of discriminatory practices that arise from the way policies are developed and delivered, without causing ourselves these kinds of problems, would be through a duty on public bodies to promote race equality. The Better Regulation Task Force, amongst others, has recommended this and we have responded that the Government will investigate the legislative and non-legislative options. I hope that, with this in mind, Alun will be content for me to proceed on the basis of direct discrimination alone.

On the list of public authorities for the purposes of the Act, Chris Smith asked that, as with Fol, all publicly funded bodies not included in the Schedule to the Act, such as NDPBs, should be eligible for inclusion by Order in the scope of the legislation. The precise detail of the Order remains to be developed but I can confirm that it is my intention that it should be wide in scope and that all NDPBs should be eligible for inclusion. I can also confirm, in relation to a point raised by Frank Dobson, my aim that the list should be easily amendable by Order.

To firm up which authorities are included on the list, my officials will liaise with their colleagues over the coming weeks where issues have been raised or are outstanding. David Blunkett suggested that educational establishments should

be omitted from the list of public authorities because they are already expressly covered by the Act. While education is expressly covered in the RRA, our officials are discussing whether there are areas which could benefit from coverage by the general provision. The inclusion of educational bodies on the list could allow this without overlap or duplication with other provisions in the RRA.

John Morris asked for an urgent meeting between his officials and mine to discuss the position of the Crown Prosecution Service as prosecutors vis a vis the list and the first of these has now taken place. John Reid commented that it would be helpful to keep him informed, and Scottish Ministers involved, in compiling the list of Scottish public authorities to be included. I hope he will accept, however, that he and Scottish Ministers are in the best position to compile a list of Scottish public authorities for the purposes of the Act. That said, my officials do have some useful experience from compiling the list for the draft Freedom of Information Bill, and are in touch with Scottish Executive officials to see what assistance they can provide.

Finally, on my proposal to make Chief Officers of Police vicariously liable for racial discrimination by police officers, George Robertson mentioned the special position of the Ministry of Defence Police and our officials are in touch to agree how the proposal should apply to them. Derry Irvine mentioned the position of Justice's Clerks and Clerks to General Commissioner of Income Tax. I agree with him that arrangements of the kind contemplated for police officers may not be appropriate but suggest that our officials discuss the options, depending upon whether the courts are to be covered by the proposed general provision or not.

Subject to further comments from colleagues, I am hoping to have collective agreement to my main proposals (except the list itself) and the ECHR point confirmed by **Friday 23 July** to enable instructions to Counsel to be issued by according to plan. It would be helpful, therefore, to have further comments by then. Policy agreement to the list of public authorities, to which the proposed general provision will apply, will be sought following further work by officials. We aim to instruct Counsel on that by September.

I am copying this letter to the Prime Minister, to members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Yours ever

Jack

JACK STRAW



Minister for the Cabinet Office
Chancellor of the Duchy of Lancaster

Top - PN
CRF
PJ
CABINET OFFICE
70 Whitehall, London, SW1A 2AS
Telephone: 0171-270 0400

(F)

Peter Unwin Esq
Principal Private Secretary
Department of the Environment, Transport
and the Regions
Eland House
Bressenden Place
London SW1E 5DU

15th July 1999

Dear Peter,

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW
OF THE RACE RELATIONS ACT 1976**

The Minister for the Cabinet Office wrote to the Deputy Prime Minister on 12 July.

Unfortunately, that letter contained an error; the first paragraph should have read:

"I have seen **Jack Straw's** letter of 7 July seeking agreement to the Government's response to the Commission for Racial Equality's third review of the Race Relations Act. I am content with **Jack's** proposals subject to a minor amendment of paragraph 4, which refers to the Civil Service nationality rules. (Details of amendment are in attached annex)".

I am copying this letter to the Principal Private Secretary to the Home Secretary, to the Private Secretaries of members of HS, LEG, QFL, and other Cabinet Ministers and to the Private Secretaries to Sir Richard Wilson and First Parliamentary Counsel.

Yours ever,

BRIGID FEENY
Private Secretary

FROM THE DEPUTY PRIME MINISTER



(F)

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3011
FAX: 0171 890 4399

OUR REF: IDC/195

The Rt Hon Jack Straw MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

15 JUL 1999

DJ
C:RR
PJ

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S (CRE)
THIRD REVIEW OF THE RACE RELATIONS ACT (RRA) 1976**

This letter gives you HS clearance to proceed as you proposed in your letter to me of 7 July, subject to the points raised by colleagues recorded below.

You sought HS agreement to the Government's response to the Commission for Racial Equality's third review of the Race Relations Act. You said the aim was that the response would be timed to coincide with a response from David Blunkett to the Equal Opportunities Commission's (EOC) review of the Sex Discrimination Act; and for both of these to be issued ahead of the Government's response to the Better Regulation Task Force (BRTF) review of anti-discrimination legislation, which was due on 14 July 1999.

Replies were received from the Prime Minister, David Blunkett, Richard Caborn, George Robertson, Frank Dobson, John Morris, Derry Irvine, Jack Cunningham, Chris Smith and Margaret Beckett. Richard, Chris and Frank were content with your proposals. David, George, John, Derry, Jack and Margaret were generally content, but raised points which they wished you to take into account.

The Prime Minister was concerned that there should be a consistent story across the responses to the CRE, EOC and BRTF. In particular, the response to the BRTF said "...the Government agrees that the public sector should promote equal opportunities...", while the responses to the CRE and EOC talked of a "...duty [being] placed on the public sector..."; and the response to the CRE went further than was agreed Government policy on the EC Burden of Proof Directive, given that the Prime Minister had asked to see a regulatory impact assessment before any decisions were taken. I understand that the responses to both the CRE and EOC have now been amended to reflect these concerns.

David was concerned that you had taken the opportunity to signal acceptance in principle to a number of detailed recommendations not covered by the agreement at your meeting on 24 June on the Better Regulation Task Force linked proposals. These included proposals on victimisation, private households, positive action and volunteers, on which David's Department either led or for which there were major implications for gender and disability. David stressed the importance of considering further the details before embarking on discussion of the detail of the proposals with the CRE or others, including exploring fully both legislative and non-legislative options. David said he would be content if you substituted the current references in your letter to the issues mentioned above with the draft text he provided. I understand that your and David's officials have now agreed revised text on these issues with which you are both content.

Jack was content, subject to a minor amendment to paragraph four of your letter, which referred to the Civil Service nationality rules. This would read "...*should be modified to allow non EEA and non-Commonwealth citizens to be employed in the Civil Service and to minimise the number of posts reserved for UK nationals. However, this will require primary legislation. Even then, there will continue to be some reserved posts and the rules enabling this will need the continuing protection of Section 75(5) of the RRA*". I understand that you have incorporated this amendment into your letter.

George asked for his officials to be involved with your work to develop the CRE's strategic role, particularly since his Department had considerable experience through the Partnership Agreement, signed in 1998, of working alongside the Commission.

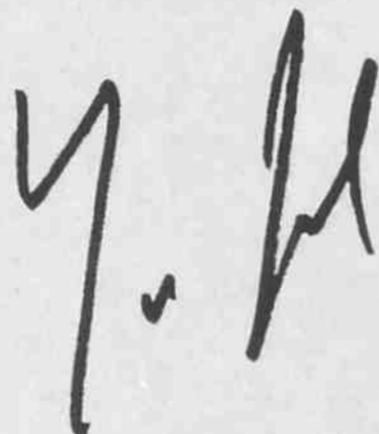
Margaret noted that Annex I (Summary of Public Comments on the CRE's Proposals and Recommendations in the light of that) had been provided for information only; but she requested that, should it be made public, the following changes be made: (page 6, second paragraph, second sentence) amend "*The aim is that this would be covered in the 3rd Session Race Bill*" to read "*The aim is that this would be covered by legislation when Parliamentary time allows*"; (page 12, fourth complete paragraph, second sentence) amend "... *and were envisaged for*

the mainland once we had a Race Equality Bill" to read "... and were envisaged for the mainland subject to Parliamentary time"; and (page 13, final paragraph, third sentence) amend "The aim is to include this in the 3rd Session Bill" to read "The aim is to include this in legislation to be introduced when Parliamentary time allows".

John was concerned that the approach on Race Relations was co-ordinated by officials so that the needs and responsibilities of the different Departments were taken fully into account.

Derry was concerned about the reverse onus of proof on employers in tribunal cases to demonstrate that their procedures and practices were not discriminatory. He was also concerned about courts drawing adverse inferences against respondents who failed to complete Section 65 questionnaires. Derry said this did not need not to affect the drafting of the response, but it was an issue of which we should be aware. Derry also suggested the following amendments to the background paper at Annex I: proposal 54 (under "Recommendation and proposed further action") should read "*LCD, who have the policy lead for the courts, will take it into account in their wider review of representative actions in England and Wales*"; and proposal 60 (second sentence) should read "*the Government believes it would generally be premature to make decisions on extending publicly funded representation in tribunal proceedings until the review has been completed*".

I am copying this letter to the Prime Minister, members of HS, LEG and QFL Committees and other Cabinet colleagues, and to Sir Richard Wilson and First Parliamentary Counsel.



JOHN PRESCOTT



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

13 July 1999

Dear Hilary,

RACE RELATIONS (AMENDMENT) BILL

The Prime Minister has seen a copy of the Home Secretary's letter of 16 June to the Deputy Prime Minister, seeking agreement to his proposals for the Race Relations (Amendment) Bill.

The Prime Minister had two concerns with the proposals:

- (a) he has asked for more details about how we would take forward the proposal that chief police officers should be made vicariously liable for racial discrimination by police officers. How would the provisions be applied in practice? What is ACPO's view likely to be? What do we think the real impact of the measure is likely to be? Where is there an equivalent provision for other chief officers?
- (b) he thinks it very important that we consider carefully a regulatory impact assessment of the proposal to extend the EU Burden of Proof Directive to race discrimination before taking a decision, in principle or in practice, in favour of such an extension. The Prime Minister is aware that the Home Secretary has now agreed to withdraw his proposal to include a provision on this in the Third Session Bill. But he thinks that, in any public pronouncements, we should not go any further at this stage than to say that we will carefully assess the relative benefits and burdens (including the costs) of extending the Directive's provisions to cover race discrimination (which is precisely what the BRTF has asked us to do). The Prime

RESTRICTED - POLICY

- 2 -

Minister has also asked that he should see the regulatory impact assessment once it has been produced.

I am copying this letter to private secretaries to members of HS and LEG Committees, other Cabinet members and to Sebastian Wood (Cabinet Office).

Yours ever,

David

DAVID NORTH

Hilary Jackson,
Home Office.

RESTRICTED - POLICY

C99/09873/04229

The Rt Hon Jack Straw MP
Home Secretary
50 Queen Anne's Gate
London
SW1H 9AT

(F)



13 July 1999

DW
C:rg
ju

Dear Jack

RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW OF
THE RACE RELATIONS ACT

Thank you for copying to me your letter of 7 July to John Prescott. I agree your proposed response to the Commission for Racial Equality's third review of the Race Relations Act.

In particular, I agree that volunteers should have greater protection under the Act, but that it would not be right to make organisations vicariously liable for the actions of volunteers.

The consultation process was wide-ranging in its scope. Legitimate concerns, such as the BBC's over compulsory monitoring, have been weighed alongside the practical effects of proposals and our overall purpose in tackling racism and building a more inclusive society.

I believe that as a result we have a well-considered just response to the Commission's proposals.

I am copying this letter to the Prime Minister, members of HS and other Cabinet colleagues, Sir Richard Wilson and First Parliamentary Counsel.

*Yours ever
Chris*

CHRIS SMITH



**CABINET
OFFICE**

CABINET SECRETARIAT

Economic and Domestic Affairs Secretariat

70 Whitehall - London SW1A 2AS

TELEPHONE: 0171 270 0326 • FAX: 0171 270 0168 • E-MAIL: srea@cabinet-office.gov.uk

Callton Young
Race Equality Unit
Home Office

(F)
13 July 1999

Dear Callton,

ANNOUNCEMENTS ON ANTI-DISCRIMINATION

Thank you for your fax of today, covering a draft response to David North for signature by Brigid Feeny, on the responses to the BRTF, the CRE and the EOC.

I have discussed with Jim Gallagher. Our comments are as follows:

- on paragraph three, in order to deal with concerns about consistency of wording on the burden of proof directive, we suggest offering an amendment to the text of the response to recommendation 10 of the Better Regulation Task Force, so that it would read:

“The Government agrees that it is desirable to maintain consistency between the equality regimes, and will carefully assess the relative benefits and burdens (including the costs) of extending the EC Burden of Proof Directive’s provisions to cover race discrimination legislation.

Because indirect discrimination is treated differently under the Disability Discrimination Act, there is not a direct read-across here, and it would therefore be inappropriate simply to apply the Directive”; and

- on paragraphs four and five, I now understand from Brigid Feeny that the responses to the CRE and EOC will use language similar to the response to the BRTF, and avoid using the term “duty”.

I am copying this letter to Jim Gallagher, Jenny Eastabrook, Andrew Limb, Clare Sumner, Brigid Feeny and Clara Swinson.

Yours sincerely,

Simon Rea
SIMON REA



INVESTOR IN PEOPLE



CABINET SECRETARIAT

Economic and Domestic Affairs Secretariat

CABINET
OFFICE

70 Whitehall ■ London SW1A 2AS

TELEPHONE: 0171 270 0326 • FAX: 0171 270 0168 • E-MAIL: srea@cabinet-office.gov.uk

FAX TRANSMISSION

TO: DAVID NORTH

ADDRESS: No. 10

FAX: 839 9044

FROM: SIMON REA

DATE: 13. vii

URGENT: (Yes) No

NUMBER OF PAGES TO FOLLOW: 1

MESSAGE:

David,
"Blind" copy of a response to Callton
Young's draft reply to you. The suggested re-
draft, and Ho/DEF agreement to drop
"duty" may allay your concern.
Grateful for a word. Simon



12/07 '99 16:03

01712194711

PS/PERM. SEC.

->>> PRIME MINISTER

001/001

FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG



HOUSE OF LORDS,

LONDON SW1A 0PW

DN
~~CC~~ JTH
PU

(P)

The Rt. Hon. John Prescott, MP
Deputy Prime Minister
The Department of the Environment, Transport and the Regions
Eland House
Bressenden Place
London SW1E 5DU

12 July 1999

Dear *John,***RACE RELATIONS (AMENDMENT) BILL**

I was grateful to Jack Straw for sending me a copy of his letter of 16 June on his proposals for the Race Relations (Amendment) Bill. I am content with the outline proposals as they currently stand. My officials continue to explore with Jack's some points of detail, especially on costs and judicial appointments. I must stress I have no provision from which to meet any additional costs falling on the justice system, which would need to be provided for. Subject to that caveat, however, I am content with the proposals Jack sets out.

On the particular points Jack asks us to confirm, I do not wish to suggest any additions or deletions to the proposed list of public authorities at this stage. My officials have explored the extent to which there are office holders in my areas of responsibility, for whom provisions analogous to what is proposed for Chief Officers of Police are necessary. The only examples we have are Clerks to Justices and Clerks to General Commissioners of Income Tax. Since the Police and Magistrates' Courts Act, Justices' Clerks' appointments have been on the basis of contracts of employment with their Magistrates' Courts Committee, and increasing numbers of them now work on that basis. Therefore, the number of Justices' Clerks who remain office holders will diminish with time. Clerks to General Commissioners of Income Tax are also office holders. In due course, however, I will be bringing forward plans for the modernisation of the tax appeal system, under which Clerks would become employees of a public authority.

I do not regard either those Justices' Clerks who remain as office holders, or the Clerks to General Commissioners of Income Tax, as high risk areas for claims of discrimination, and in my view it would be disproportionate to set up arrangements of the kind contemplated for police officers for these two cadres of officials.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues, and to Sir Richard Wilson and First Parliamentary Counsel.

Yours *ever,**Derry*



Minister for the Cabinet Office
Chancellor of the Duchy of Lancaster

CABINET OFFICE
70 Whitehall, London SW1A 2A
Telephone: 0171 270 0400

From the Private Secretary

FACSIMILE NO. 0171 270 0345
TELEPHONE NO 0171 270 0225
FACSIMILE TRANSMISSION HEADER SHEET

TO: Paul Brown
FAX NO: 343-0431
DATE: 12 July 1999
NO OF PAGES (INCLUDING THIS PAGE) : 3

FROM: Brigid Feeny
MESSAGE:

Paul

This is a copy of the HO Press Notice as of Friday. Hope this helps in your deliberations. Please let me know where we stand later on, as we discussed.

Many thanks

Brigid

0171 270 6115

(F)

14 July 1999

0171 273 4650

GOVERNMENT RESPONSE TO CRE REVIEW OF THE RACE RELATIONS ACT

The Government has ~~today~~ responded to the Commission for Racial Equality's third review of the Race Relations Act.

The response follows public consultation on the CRE's and other proposals to update the 1976 Act.

These include new areas for inclusion in the Act, exceptions to the Act as well as changes to the powers of the CRE, ethnic monitoring by organisations and how the Act should be better enforced.

Outlined in a letter to CRE Chairman, Sir Herman Ouseley, the Home Secretary agreed that:

- As announced in response to the Stephen Lawrence Inquiry, the Race Relations Act will be extended in respect of the activities of the public sector;
- ~~a duty should be placed on the public sector to promote race, gender and disability equality and the legislative and non-legislative options will be explored;~~
- civil service nationality rules should be changed to allow non-EEA and commonwealth citizens to be employed in the Civil Service and to reduce the number of posts reserved for UK nationals;
- clarification of the definition of "indirect discrimination" is desirable, to reflect developments in European legislation;
- improvement is needed to the compensation arrangements for indirect racial discrimination in line with that in the Sex Discrimination Act;
- the onus should be on employers to demonstrate in Tribunal cases that their procedures and practices are not discriminatory in line with developments in the EC Burden of Proof Directive;
- ~~volunteers should have greater protection under the Act;~~
- the CRE should have new powers to suggest changes to practices and procedures where an investigation has shown evidence of unlawful racial discrimination;

not agreed 5/25

not a duty

→
(L)

not agreed at all
Civil Rts
(RtA)

not cleared at all -
- don't say any

- the CRE should be able to act more strategically than at present.

On statutory monitoring by businesses, the Home Secretary undertook to keep the position under review, in line with the Better Regulation Task Force's recommendation that they should be encouraged on a voluntary basis with legislative action only if necessary.

Jack Straw said:

"I am very grateful to the CRE for their comprehensive review of the Race Relations Act and to all those who have responded during the consultation period.

"The Government recognises that, although significant progress has been made since the Race Relations Act was introduced 23 years ago, there is much to be done before we achieve the racial equality necessary to make this a truly inclusive society.

"Institutional racism, as highlighted by the Stephen Lawrence Inquiry report, has to be tackled in a number of ways, of which the legislative framework is only one. The Government wants to set the pace and lead by example.

"The CRE has made a significant contribution to the progress on race equality achieved so far across Britain. It has a key role to play in the future to help to take the agenda forward in the 21st century. I am confident the Commission, working in partnership with the public and private sectors, can rise to this challenge."

NOTES FOR EDITORS:

1. On 9 June 1998, the CRE published its 3rd review of the Race Relations Act 1976. This contained 57 proposals for reform. The Home Office sought public comments on the review and a complementary digest of six proposals from others, by 18 December 1998.
2. One hundred and thirty responses to the consultation were received, 20 of which included comments on the digest. The vast majority of responses came from Race Equality Councils and others directly involved in assisting ethnic minorities and were supportive. Respondents are being contacted regarding the release of their comments. Where agreement is given, copies will be made available on request. A copy of the Home Secretary's reply to the Chairman of the CRE has been placed in the Libraries of the House and is available on request.
3. The Government has today also responded to the Better Regulation Taskforce report on anti-discrimination legislation and the Equal Opportunity Commission review on the Sex Discrimination Act 1975.

FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG

(F)

HOUSE OF LORDS,
LONDON SW1A 0PWDN
CC: JJA
PU

The Right Hon John Prescott MP
Deputy Prime Minister and Secretary of
State for the Environment, Transport and
the Regions
Eland House
Bressenden Place
LONDON SW1E 5DU

12 July 1999

Dear John,

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW OF
THE RACE RELATIONS ACT 1976**

I have seen Jack Straw's letter to you of 7 July seeking agreement to the Government's response to the Commission for Racial Equality's third review of the Race Relations Act 1976. I support the thrust of the response, and am happy for Jack to send it, subject to a few small points.

I have a concern about the reverse onus of proof on employers in tribunal cases to demonstrate that their procedures and practices are not discriminatory. I am also concerned about courts drawing adverse inferences against respondents who fail to complete Section 65 questionnaires. While the first proposal comes from the Burden of Proof Directive, which suggests that the practice is compatible with the European Convention on Human Rights, I would not be surprised if both of these proposals are tested in our domestic courts against the Human Rights Act, if and when they are implemented. Although this need not affect the drafting of our response, it is an issue of which we should be aware.

I would also like to suggest some amendments to the paper. Proposal 54 (on litigation affecting a class or group of individuals) clearly refers to removing the need for each person to bring proceedings separately. This falls within the definition of "representative" rather than "class" actions. I would suggest that the first sentence under "recommendation and proposed further action" should read:

"LCD, who have the policy lead for the courts, will take it into account in their wider review of representative actions in courts in England and Wales".

Finally, I would like to see a very minor amendment to the Government's response to Proposal 60 on legal aid in tribunal cases. In the second sentence it would be more appropriate to say that "the Government believes it would *generally* be premature to make any decisions on extending publicly

funded representation in tribunal proceedings until the review has been completed". I am writing separately to HS Committee asking for policy approval for publicly funded representation to be extended, under contract, to representation before the Immigration Appeal Authorities.

I am copying this letter to the recipients of Jack's letter of 7 July.

Yours *ever,*

Servy



The Rt Hon John Morris QC MP

9 BUCKINGHAM GATE
LONDON SW1E 6JP

(F)

0171-271 2460

The Rt Hon Jack Straw, MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

DN
C: RA
40

12 July 1999

Dear Jack,

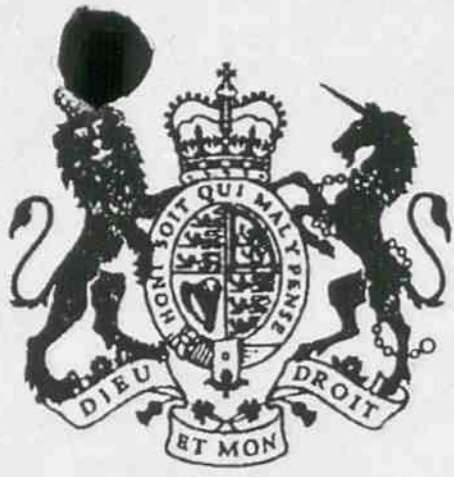
You copied to me your letter to the Deputy Prime Minister seeking agreement to the Government's proposed response to the Commission for Racial Equality's third review of the Race Relations Act.

I am broadly content with the response but I would like to stress the need for the approach on Race Relations to be better co-ordinated by officials so that the needs and responsibilities of the different Departments are taken fully into account.

I am copying this letter to the Prime Minister, members of HS and other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

John Morris

JOHN MORRIS



Minister for the Cabinet Office
Chancellor of the Duchy of Lancaster

CABINET OFFICE
70 Whitehall, London, SW1A 2AS
Telephone: 0171-270 0400

(f)

~~TOP-DN~~

C: RR
40

The Rt Hon John Prescott MP
Deputy Prime Minister and Secretary of State
for the Environment, Transport and the Regions
Department of the Environment, Transport
and the Regions
Eland House
Bressenden Place
London SW1E 5DU

12 July 1999

Dear John,

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD
REVIEW OF THE RACE RELATIONS ACT 1976**

I have seen your letter of 7 July seeking agreement to the Government's response to the Commission for Racial Equality's third review of the Race Relations Act. I am content with your proposals subject to a minor amendment of paragraph 4, which refers to the Civil Service nationality rules. (Details of amendment are in attached annex).

While the comments made in the paragraph are correct I do not believe that it responds directly to the CRE's actual recommendation that Section 75(5) of the Race Relations Act should be removed or modified. Section 75(5) excludes from the Act any rules made by the Minister for the Civil Service restricting employment in the service of the Crown or a prescribed public body to persons of particular birth, nationality, descent or residence.

As you know, I am keen to bring about changes to the statutory basis of the Civil Service nationality rules, which I view as outdated and contrary to the spirit of recruitment through fair and open competition and selection. However, I recognise that several departments continue to restrict employment. The amendment we suggest would make significant progress in removing unnecessary restrictions whilst still providing the Civil Service nationality rules with protection afforded by this section.

I am copying this letter to the Prime Minister, members of HS, LEG, QFL, and other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

As ever,

Jack.

JACK CUNNINGHAM

Paragraph four of the Home Secretary's letter to Sir Herman Ouseley to be amended as follows:

- "should be modified to allow non-EEA and non-commonwealth citizens to be employed in the Civil Service and to minimise the number of posts reserved for UK nationals. However, this will require primary legislation. Even then there will continue to be some reserved posts and the rules enabling this will need the continuing protection of Section 75(5) of the RRA."



The Rt Hon Margaret Beckett MP

(F)

TOP-DN

RR
PJ

PRIVY COUNCIL OFFICE

68 WHITEHALL LONDON SW1A 2AT

12 July, 1999

Dear Clare

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW OF
THE RACE RELATIONS ACT 1976**

The President of the Council was grateful for her copy of your Secretary of State's letter of 7 July to the Deputy Prime Minister seeking agreement to the proposed Government response to the Commission for Racial Equality's third review of the Race Relations Act 1976.

The President is content for the response to be issued. However, although Mrs Beckett has noted that Annex I (Summary of Public Comments on the CRE's Proposals and Recommendations in the Light of That) has been provided for background information only, she has asked that, should it be made public, the following changes be made:

Page 6, second paragraph, second sentence, amend "The aim is that this would be covered in the 3rd Session Race Bill" to read "The aim is that this would be covered by legislation when Parliamentary time allows".

Page 12, fourth complete paragraph, second sentence, amend "...and were envisaged for the mainland once we had a Race Equality Bill" to read "...and were envisaged for the mainland subject to Parliamentary time".

Page 13, final paragraph, third sentence, amend "The aim is to include this in the 3rd Session Bill" to read "The aim is to include this in legislation to be introduced when Parliamentary time allows".

I am copying this letter to Private Secretaries of the Prime Minister, of members of HS and LEG and other members of the Cabinet, and to Sebastian Wood and First Parliamentary Counsel.

Yours sincerely

MATTHEW HILL
Private Secretary

Clare Sumner
PS/Home Secretary
Queen Anne's Gate
London SW1H 9AT

FROM THE RT HON RICHARD CABORN MP
MINISTER FOR THE REGIONS, REGENERATION AND PLANNING

Top-DN
ERB
PJ



DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3013
FAX: 0171 890 4539

The Rt Hon John Prescott MP
Deputy Prime Minister & Secretary of State for
the Environment, Transport & the Regions
Department of the Environment, Transport & the Regions
Eland House
Bressenden Place
London SW1E 5DU

OUR REF: IDC No. (99) 195

12 JUL 1999

Dear Deputy Prime Minister,

**THE GOVERNMENT'S RESPONSE TO THE COMMISSION FOR RACIAL
EQUALITY'S THIRD REVIEW OF THE RACE RELATIONS ACT 1976**

Jack Straw's letter of 7 July seeks agreement to his proposed response to the Commission for Racial Equality's review.

Having considered the letter Jack proposes to send to the CPRE, I have no disagreement with his response on any of the key issues.

I am sending copies of this to the Prime Minister, members of HS and other Cabinet colleagues, and to Sir Richard Wilson and First Parliamentary Counsel.

Yours sincerely,

Fwau West

PP RICHARD CABORN
(Approved by the Minister and signed in his absence)

Top: HAP/PS

(F)

= R/S



SANCTUARY BUILDINGS GREAT SMITH STREET
 WESTMINSTER LONDON SW1P 3BT
 TELEPHONE 0870 0012 345
 E-mail dfee.ministers@dfee.gov.uk
 The Rt Hon DAVID BLUNKETT MP

The Rt Hon Jack Straw MP
 Home Secretary
 Home Office
 Queen Anne's Gate
 London
 SW1H 9AT

9 July 1999

Dear Jack

RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW OF THE RACE RELATIONS ACT 1976

You circulated your proposed reply to the CRE legislative review on 7 July.

I am broadly content with your approach. I note, however, that you have taken the opportunity to signal acceptance in principle of a number of detailed recommendations not covered by our agreement at the meeting on 24 June on the BRTF linked proposals. These include proposals on victimisation, private households, positive action and volunteers on which my Department either leads or for which there are major implications for gender and disability.

I must stress the importance of our considering further the detail of this (based on the joint paper we have already commissioned) before you embark on any discussion of the detail of this with the CRE or others. The proposals on victimisation particularly could impact significantly on employers obligations to provide references to former employees and will need careful consultation with business. On protection for volunteers I am concerned that we run the risk of creating new anomalies between the various strands of equality legislation as there could be perverse and adverse effects if volunteers are protected under the Disability Discrimination Act. I would want to see further consideration of this issue including exploring fully both legislative and non-legislative options before we make any public comment. I would be content if you were to substitute the current references in your letter to the issues I have mentioned with the following:



INVESTOR IN PEOPLE

SKP 9/7/99

"There are a number of other areas where we see merit in change when legislative time permits. These include measures to improve consistency with the Sex Discrimination Act (eg on victimisation and private households); and clarification of coverage in relation to areas such as volunteers and the positive action provisions. We will consult further with the main interested parties on detailed proposals."

I am copying this to the Prime Minister, members of HS and other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Best wishes



DAVID BLUNKETT



Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Secretary of State for Health

(f)

RESTRICTED - POLICY

DN
C: RR
VPU

The Rt. Hon. Jack Straw MP
Home Secretary
Queen Anne's Gate
London SW1H 9AT

9 July 1999

RESPONSE TO THE COMMISSION FOR RACE EQUALITY'S THIRD REVIEW OF THE RACE RELATIONS ACT 1976

Thank you for your letter of 7 July seeking agreement to the Government's formal response to the Commission for Race Equality's third review of the Race Relations Act.

We fully support the response on the public sector duty to promote equal opportunities and will be looking at options to implement this within the NHS.

I am copying this to the Prime Minister, members of the HS and other Cabinet colleagues, Sir Richard Wilson and First Parliamentary Counsel..

FRANK DOBSON

Top: HAIPS
=PK



QUEEN ANNE'S GATE LONDON SW1H 9AT

07 JUL 1999

The Rt Hon John Prescott MP
Deputy Prime Minister and
Secretary of State for the Environment,
Transport and the Regions
Eland House
Bressenden Place
LONDON SW1E 5DU

Dear John,

**RESPONSE TO THE COMMISSION FOR RACIAL EQUALITY'S THIRD REVIEW OF
THE RACE RELATIONS ACT 1976**

I am writing to seek agreement to the Government's response to the Commission for Racial Equality's third review of the Race Relations Act.

As you know, a public consultation was conducted last year on the recommendations arising from the CRE's review. We are now in a position to respond to the review in the light of that consultation and the Better Regulation Task Force's report on anti-discrimination legislation. The aim is that the response will be timed to coincide with a response from David Blunkett to the Equal Opportunities Commission's review of the Sex Discrimination Act. Hopefully both can issue ahead of the Government's response to the Better Regulation Task Force report which is due on 14 July 1999.

... My proposed response to the CRE is attached. To meet the co-ordinated
... deadline, I would welcome your agreement to this by Monday, 12 July. A paper prepared by my officials, which summarises the outcome of the consultation and makes recommendations in respect of each, is attached as background.

I am copying this letter to the Prime Minister, members of the HS and other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Yours truly,

Jack

JACK STRAW



QUEEN ANNE'S GATE LONDON SW1H 9AT

Sir Herman Ouseley
Chairman
Commission for Racial Equality
Elliot House
10-12 Allington Street
London
SW1E 5EH

As you know, the Government has been considering the Commission's Third Review of the Race Relations Act in the light of the public consultation exercise that we conducted and the outcome of the Better Regulation Task Force's review of anti-discrimination legislation. The Equal Opportunities Commission's review of the Sex Discrimination Act has also been relevant, as have developments on the Disability Rights Commission Bill.

The Government is due to respond to the Better Regulation Task Force's report later this week. I am, therefore, writing to let you know ahead of this the Government's conclusions on the key issues raised in your review many of which were also covered in the Task Force's report. I am aware of the welcome you gave the report when it was published in May.

The Government agrees with the Commission's proposal that the Act should be extended in respect of the activities of public services. I have already announced this in the context of the Government's response to the Stephen Lawrence Inquiry report and said that I will bring forward legislation as soon as Parliamentary time allows. We also agree with the principle behind your proposal that public bodies should be defined for this purpose as widely as possible.

The Government agrees that there should be a duty on the public sector to promote race equality, gender and disability too. Officials have been asked to work up options, both legislative and non-legislative, for taking this forward in the fields of public sector employment, the provision of goods, facilities and services and the functions to be newly caught by the extension of the Act described above. We also agree that the Civil Service Nationality Rules should be modified to allow non-EEA and commonwealth citizens to be employed in the Civil Service and to minimise the number of posts reserved for United Kingdom nationals.

We accept your recommendation to make it easier to issue Codes of Practice in new areas. This chimes in well with Task Force's recommendations, with which we also agree, that obstacles to the Equality Commissions providing advice to businesses, in particular issuing joint Codes of Practice, should be removed.

The Government agrees that some clarification of the definition of indirect discrimination is necessary. The EC Burden of Proof Directive introduces a revised definition for gender cases and we would wish to see that adopted for race cases too. We also agree that some improvement is necessary to the compensation arrangements for indirect racial discrimination to bring them into line with those in the Sex Discrimination Act.

We would also wish to adopt, as the Commission proposes, the main provisions of the EC Burden of Proof Directive in order to place the onus on employers to demonstrate in Tribunal cases that their procedures and practices are not discriminatory.

We also accept the principle of bringing the victimisation provisions in the Race Relations Act in line with the application of the Equal Treatment Directive in gender cases. We will, of course, need to ensure that in practice arrangements are developed that minimise burdens on business.

We accept the principle that volunteers should have greater protection under the Act although do not agree that organisations should be made vicariously liable for the actions of volunteers.

A number of the Commission's proposals call for clarification of provisions in the Act. We agree that a clearer distinction can be made between the work of, say, nannies in a private household and that of a trades person undertaking household plumbing repairs, for example. We also agree that some clarification of what positive action is lawful can be made.

On the Commission's powers under the Act, the Government's developing approach is largely reflected in the Disability Rights Commission Bill. This chimes in well in many areas with the CRE's own proposals. We would wish to see the CRE given powers to suggest changes to practices or procedure where an investigation has produced evidence of unlawful racial discrimination, and to be able to require an action plan to be prepared, as you propose, with recourse to the courts if necessary. We would also wish to see the Commission enabled to seek agreement with organisations on remedial action to stop discrimination and reduce recourse to courts by allowing them to enter into legally binding undertakings. This approach already applies under separate provisions in Northern Ireland.

We accept that there should be a duty on courts and tribunals to draw inferences from the failure of respondents to complete s. 65 questionnaires and that there should be a time limit of 8 weeks for responses to be made.

We accept that the CRE should be able to act more strategically than at present. The Task Force has also proposed this. Officials have been asked to develop detailed proposals, to establish what can practicably be done to take it forward.

Turning to our response to the Better Regulation Task Force, we agree with the main recommendation that major overhaul of the regimes, such as moving at this stage towards a single Equality Commission or Statute, is unnecessary. We also agree that our priority should be to make the existing regimes work better and we believe that acceptance of the points outlined above will contribute significantly to that. We are keen to see more joint working by the Commissions and I know that the CRE has already embarked down that road.

We will keep under review the need for statutory monitoring by businesses but at this stage accept the Task Force's recommendation that this should be encouraged on a voluntary basis with legislative action only if necessary. The Commission has a major promotional role to play here, explaining to employers the benefits of monitoring to ensure that they have a diverse workforce.

The Government recognises that, although significant progress has been made since the Race Relations Act was introduced 23 years ago, there is much to be done before we achieve the racial equality necessary to make this a truly inclusive society. Institutional racism, as highlighted by the Stephen Lawrence Inquiry report, has to be tackled in a number of ways, of which the legislative framework is only one. The Government wants the public sector to set the pace, leading by example. The Commission for Racial Equality has made a significant contribution to the progress on race equality achieved so far across Great Britain. It has a key role to play in the future to help to take the agenda forward into the 21st Century. I look to the Commission to meet this challenge, working in partnership with the public and private sectors, so that they in turn can meet the standards expected of them.

I would like to take this opportunity to thank the Commission for Racial Equality again for its work in producing its Third Review of the Act.

JACK STRAW

**SUMMARY OF PUBLIC COMMENTS ON THE CRE'S PROPOSALS AND RECOMMENDATIONS
IN THE LIGHT OF THAT**

**CHAPTER 1: RACIAL EQUALITY AS A PERMANENT PRIORITY AND OBLIGATION FOR
GOVERNMENT AND ALL PUBLIC BODIES**

Priority for Discrimination Legislation

Proposal 1

Using the Human Rights Bill as a precedent, when new legislation is proposed, the Minister responsible should be expected to certify that the new measure is consistent with, and does not conflict with, the Race Relations Act. Where the Minister is not able to do so, she or he would be expected to explain, in a memorandum attached to the Bill, why the new measure should be enacted in its proposed form, despite its being in conflict with the Race Relations Act.

Outcome of public consultation

The proposal was supported in consultation almost without exception.

Recommendation and proposed further action

Reject proposal 1 as it would be of limited effect in respect of Bills alone where Parliamentary debate should, in any case, bring out the issues. To go further than the proposal and include secondary legislation could prove bureaucratic. Moreover, the RRA itself provides that acts done under statutory authority do not contravene its provisions.

The RRA should apply to all Activities of Government and all Public Sector Bodies

Proposals 2-4

The Act should affirm the right of every person not to be discriminated against on racial grounds by any public body (2).

Correspondingly, it should be unlawful for any public body to discriminate against a person on racial grounds in carrying out any of its statutory functions (3).

Public bodies should be defined in line with the definition of public authorities in the Human Rights Bill as 'any body certain of whose functions are functions of a public nature' (4)

Outcome of public consultation

Public comments supported these proposals although the CBI was concerned that the privatised utilities should not be caught by any resultant definition of a public body.

Recommendation and proposed further action

Reject proposal 2 as the RRA, even if applied to public bodies in the way proposed, would not confer a general right not to be discriminated against. **Accept in principle proposal 3**, which is in line with the Government's policy response to a similar proposal in the Stephen Lawrence Inquiry report. **Accept the principle behind proposal 4** that the definition should be wide, but it may be inappropriate to go as wide as the Human Rights Act (which includes for example the security services and, in certain circumstances, public utilities) when defining public bodies. **Proposals 3 and 4 are being taken forward in the 3rd Session Race Bill.**

The Government and all Public Bodies should have new Racial Equality Duties

Proposals 5-12

The Act should be amended to make it a duty for all public bodies in carrying out their functions to work for the elimination of racial discrimination and to promote equality of opportunity and good relations between people from different racial groups (5).

Every public body should be required to prepare a statement explaining any significant impact that a proposed policy or action by the body might have on its ability to fulfil its racial equality duties. Where a significant adverse impact is anticipated, the public body would be expected to consider alternatives to the proposed policy or action, including appropriate consultation, and the final statement would need to include justification for the rejection of alternatives less likely to have significant adverse impact. Impact statement should be available to anyone on request (6).

Public bodies would be expected to use 'contract compliance' to raise standards of racial equality among those with whom they have contracts or service level agreements, or those to whom they provide funding by way of grants (7).

Public bodies would be expected to carry out ethnic monitoring to assess their performance (8).

Public bodies should be required to report annually on the measures taken to comply with their racial equality duties (9).

Monitoring the performance of these duties should form part of the overall monitoring conducted by, for example, the National Audit Office, the Audit Commission, HMIC, etc (10).

When a public body fails to carry out its racial equality duties, it could be subject to challenge by way of judicial review (11).

The Act should also provide specific powers for the Commission to verify compliance by public bodies of their racial equality duties and to take action in respect of non-compliance. The Commission should have the power to issue a notice requiring action to prevent a further breach or to bring proceedings for a declaration and (mandatory) injunction. Where the public body accepts a breach of duty and agrees to take remedial action, the Commission should be able to enter into a legally binding undertaking (12).

Outcome of public consultation

These proposals received widespread support, e.g. amongst organisations like RECs, TUC, Unison. However, the BBC were particularly concerned about compulsory monitoring and follow-up enforcement, the Association of Police Authorities about possibly becoming answerable to the CRE on race equality, the Association of Chief Police Officers about the resource implications of impact statements, as were Eversheds (employment law specialists), who also felt contract compliance would be ineffective. The Teacher Training Agency opposed the use of contract compliance. The CBI opposed statutory monitoring, preferring a Code of Practice, and offered no comment on the issue of contract compliance.

Recommendation and proposed further action

Many of these proposals are amongst the crosscutting issues raised in the Better Regulation Task Force's report. The proposed Government's response to the Task Force, agreed at Dr Cunningham's recent meeting of anti-discrimination Ministers, accepts that a duty should be placed upon public bodies to promote equality and that the Government would look at the legislative and non legislative options. The response also covers the issue of impact statements referring to the administrative policy of "mainstreaming" equality into policy making which includes monitoring. **Proposals 5, 6, 8, & 9 should, therefore, be accepted in principle, but not necessarily through legislation or in the exact form that the CRE proposes. The issue of enforcement would be addressed in the light of the duty eventually developed (proposals 10 & 12).**

The recommendation that the Government use its purchasing power to improve equality standards down the supply chain runs counter to Treasury procurement policy. However, the meeting of anti-discrimination

Ministers agreed that the issue merited further exploration and commissioned a paper from officials. The proposed Government response to the Task Force, therefore, holds the Treasury line pending further behind the scenes consideration of the issues by Ministers. **Your response to proposal 7 should also hold the Treasury line. Proposal 11 should be rejected**, as a duty to promote is necessarily vague in its requirements and not designed to produce a particular result for a particular individual. Being aimed at the common good, what might benefit one person may seem insufficient or detrimental to another. Enforcement by individuals is not appropriate for a duty of this nature.

CHAPTER 2: SCOPE OF THE RRA AND DEFINITIONS

A Positive Right to be Free From Discrimination

Proposal 13

In respect of the activities to which the Act applies, there should be a positive statement affirming the right of all persons not to be discriminated against on racial grounds.

Outcome of public consultation

There was general support from the consultation. Only Eversheds were opposed to the proposal.

Recommendation and proposed further action

Reject proposal 13 as the RRA does not confer rights - it makes certain conducts unlawful and provides remedies. A positive right to be free from discrimination would require an entirely different approach to be taken. Such a general right is being developed in the Council of Europe and once agreed would be implemented under the Human Rights Act.

Conformity with EC Law

Proposal 14

The Race Relations Act should provide for amendments to be made by Order of the Secretary of State where this is necessary to bring the Act into conformity with the principles of EC law.

Outcome of public consultation

There was widespread support from the consultation with only the West Indian Standing Conference objecting on the basis that EC law should be keeping abreast with the UK's.

Recommendation and proposed further action

Reject proposal 14 as order making powers in section 2 (2) of the European Communities Act can be used to implement any new EU race legislation.

New Definition of Indirect Discrimination

Proposals 15 & 16

The Commission recommends that the definition of indirect discrimination in the Act should read: *Indirect discrimination occurs where an apparently neutral provision, criterion, practice or policy which is applied to persons of all racial groups cannot be easily satisfied or complied with by persons of a particular racial group or where there is a risk that the provision, criterion, practice or policy may operate to the disadvantage of persons of a particular racial group, unless the provision, criterion, practice or policy can be justified by objective factors unrelated to race (15).*

Compensation should be payable for indirect discrimination without the need to show that the discrimination was intentional (16).

Outcome of public consultation

There was widespread support for these proposals, e.g. organisations like Liberty, TUC, Institute of Personnel and Development, Society of Personnel Officers. Opposition came from a few organisations like Barclays, the BMA, CBI the Employment Lawyers Association and Eversheds but some of these would be content with a proposal based more upon the EC Burden of Proof Directive.

Recommendation and proposed further action

Partly accept proposal 15 as some minor clarification would be desirable to bring the RRA more in line with the EC Burden of Proof Directive. **The aim is that this would be covered in the 3rd Session Race Bill.** Wholesale redrafting of the definition of indirect discrimination as proposed, without changing the substance, would run the unnecessary risk of reopening arguments about the interpretation of the provision. **Partly accept proposal 16** to bring the compensation arrangements for indirect racial discrimination in line with those in the Sex Discrimination Act.

Discrimination by way of "Victimisation" should be Wider in Scope

Proposals 17 & 18

The scope for a person to bring a complaint of discrimination should be extended so that, where the Act may limit the right to bring a complaint of direct or indirect discrimination, this should not necessarily preclude a complaint involving victimisation (17).

The Act should permit a complaint of discrimination by victimisation where the initial complaint of discrimination is bona fide and made in good faith but which, because of the limitations of the Act, is held not to constitute a complaint or proceedings 'under the Act' (18).

Outcome of public consultation

There was widespread support with only the CBI in outright opposition. They felt the law was adequate as it stood.

Recommendation and proposed further action

Accept the principle behind proposals 17 and 18 of bringing the victimisation provisions in the Race Relations Act in line with the application of the Equal Treatment Directive in gender cases. We will need to ensure that in practice arrangements are developed that minimise burdens on business.

Discrimination in Education

Proposals 19 & 20

The sections of the Act relating to education (sections 17-19) should be codified to ensure that all bodies with responsibilities in the field of education are covered by the Act in respect of all their education-related functions. If possible the drafting should be sufficiently wide to accommodate new structures without the need for repeated amendment of the Act (19).

It is ... recommended that codification of the education-related provisions in the Act should also clarify the distinction between education and training for the purposes of the Act (20).

Outcome of public consultation

There was general support from the consultation with no organisation dissenting.

Recommendation and proposed further action

Extension of the RRA to all public service activities would make **proposal 19 superfluous**. DfEE, who have the policy lead, **accept proposal 20** to clarify the distinction between education and training.

Discriminatory Advertisements

Proposal 21

The Act should be amended to state that advertisements made unlawful by section 29(1) of the Act must relate to activities regulated under the Act (currently by Part II or Part III).

Outcome of public consultation

Few respondents commented on this proposal (which would clarify the law in respect of adverts for dating partners of a particular racial group) but those that did were supportive.

Recommendation and proposed further action

Reject proposal 21 as it would be difficult in practice to draw the line between adverts which displayed racial prejudice ("white females only need apply") and those which expressed a personal preference (for a "black female").

CHAPTER 3: NEW AREAS FOR INCLUSION IN THE ACT

Procurement - Tendering and Award of Contracts

Proposals 22 & 23

The Act should be amended to make it unlawful to discriminate on racial grounds in any of the stages of procurement where the value of the contract exceeds a *de minimis* exception (22).

Further consultation is needed on how also to include within the Act suitable provision to permit procurers to adopt positive action measures in relation to procurement. The Commission regards such provision as equally important, since good practice among procurers which facilitates equal access to business and marketing opportunities should be encouraged and not prohibited. For procurement by public bodies, this should be built into their practice within their racial equality obligations (23).

Outcome of public consultation

All respondents commenting on this proposal in the consultation were supportive.

Recommendation and proposed further action

Accept proposal 22 in principle only (in relation to public services), as extension of the RRA to all public service activities could make it superfluous. **Reject proposal 23**, as positive action in relation to procurement is likely to contravene EC procurement, competition and state aid rules. Defining which businesses should be covered would also be problematic.

Volunteers should have the Same Protection as Employees

Proposals 24 - 26

Volunteers should be protected against discrimination by the organisation for which they do voluntary work, and the organisation should have the same duties towards them as they do towards anyone working under a formal contract of employment. This would include liability of the organisation to protect volunteers against racial harassment by third parties and vicarious liability of the organisation if the discriminatory act was performed by an employee or another volunteer (24).

The Act should include a new section, comparable to section 4 of the present Act, defining the circumstances in which it would be unlawful for the employer of volunteers to discriminate (25)

Any exceptions in the Act that apply to employees should also apply to volunteers, for example genuine occupational qualifications (section 5) (26).

Outcome of public consultation

All respondents commenting on these proposals supported them in full or in principle.

Recommendation and proposed further action

Accept proposals 24-26 with the minor exception of vicarious liability in respect of third parties and "other volunteers" as to make a body liable for the acts of its volunteers raises questions that go much wider than the RRA.

Office Holders to be Brought Within the RRA

Proposal 27

The Act should be amended to provide appropriate protection against discrimination for office-holders in respect of appointment, terms and conditions, termination and any other detriment. This would require deletion of the exception in section 75 (2)(a).

Outcome of public consultation

The majority of respondents commenting on this proposal supported it.

Recommendation and proposed further action

DfEE and Cabinet Office have been leading a working group of officials to consider this proposal across the board for equality law. It raises some difficult policy issues, in that an extension of the law may reduce ministers' current flexibility to 'balance' boards (which in some cases they are likely to use to benefit women and members of the ethnic minorities). It also raises some difficult legal issues, for example in relation to the enforcement regime and the interaction with the system of judicial appointments (where the Lord Chancellor is resisting any extension). **Further ministerial consideration is required before a decision is reached.**

Former Employees to be Given Protection Under the RRA

Proposal 28

The Act should be amended to make it unlawful for an employer to discriminate against a former employee in any way that is related to the person's previous employment with that employer.

Outcome of public consultation

All respondents commenting on this proposal generally supported it with the exception of Eversheds and the Employment Lawyers Association which queried the objective. The CBI queried how the proposal would work in practice.

Recommendation and proposed further action

Accept proposal 28 in principle, given the recent ECJ ruling in the Coote case which gave protection to ex-employees against discriminatory treatment. We will need to ensure that in practice arrangements are developed that minimise burdens on business.

CHAPTER 4: EXCEPTIONS TO THE ACT

Part II – Employment

Proposals 29 - 33

The private household exception in section 4(3) should be restated so that it provides an exception that goes beyond the fact that the employment is, or is intended to be, performed in a private household (29).

The exception should encompass some types of care support provided in people's homes, but should not automatically encompass all employees involved in community care (30).

The Commission recommends that subsections 5(2)(a) – (c) should be deleted and that the Act should provide that being of a particular racial group is a genuine occupational qualification for a job only where:

- a. The particular job is one where the employer can demonstrate that the racial group of the job-holder is an essential defining feature, or
- b. The job-holder provides people from that racial group with personal services promoting their welfare, services which can most effectively be provided by a person of that racial group (as presently in section 5(2)(d)) (31).

The limitation imposed by section 8 in its present form should be expanded to enable tribunals and courts in this country to try cases involving acts of discrimination on grounds of race or nationality which are contrary to EC law (32).

An amendment is required to bring all partnerships, of any size, within the Act (33).

Outcome of public consultation

Responses were diverse but there appeared to be general support for keeping exceptions to a minimum.

Recommendation and proposed further action

Accept proposals 29 & 30 to distinguish between the work of say nannies in a private household which is of a personal nature and that of a trades person undertaking household plumbing repairs for example. **Reject proposal 31** as the case made for changing the definition of genuine occupational qualifications is not strong. **LCD**, who have the policy lead, **reject proposal 32** as it would run counter to the UK's international obligations, implemented in the Civil Jurisdiction and Judgement Act 1982.

Part III – Other Fields

Proposal 34

This blanket exception (for the Civil Service Nationality Rules) is inconsistent with the proposal that the Act should apply to all activities of Government and all public bodies, and that enhanced racial equality duties should be imposed on all public bodies. It should be removed or suitably modified.

Outcome of public consultation

There was a great deal of support among the few respondents commenting on the proposal although the Police Superintendents Association opposed it.

Recommendation and proposed further action

Cabinet Office, who are in the lead (FCO & NIO have a strong interest too), **accept proposal 34**, specifically that modification is necessary to allow non-EEA and community citizens to be employed in the Civil Service and to reduce the number of posts which are reserved for UK nationals.

CHAPTER 5: POSITIVE ACTION

Proposals 35 - 38

What the law should provide is:

- (a) A clear, well-defined formulation of the problem, namely that for any, or no, reason, particular racial groups have been excluded from, or have not sought to participate in, particular occupations. Where recruitment is from a wide area, or on a national basis, then national statistics demonstrating under-representation should be required.
- (b) A clear description of what is permitted within "access to facilities for training which would help to fit them for that work" (35).

The legislation should, in plain language, make clear that permitted training includes both exclusive training and reserved places, regardless of whether under-representations nation or local (36).

The Act should be amended to include on-the-job training and/or apprenticeships training as permitted training, up to a maximum period of, say, two years. Being selected for training (*including positive action selection*) does not automatically lead to employment beyond the period of training (37)

The Act should be amended to enable training bursaries, rather than training facilities, to be targeted at racial groups under-represented in the occupation for which the training bursary is offered (38).

Outcome of public consultation

Almost all respondents who commented on this proposal were supportive of it. The CBI in signaling its support, however, emphasised that *positive action* should not in its view become *positive discrimination*. Barclays Bank suggested that it would be helpful if the difference between positive action and positive discrimination were clarified.

Recommendation and proposed further action

Accept proposals 35 to 38 in principle, to the extent that clarification can be made without resulting in positive discrimination.

CHAPTER 6: ETHNIC MONITORING

Proposals 39 - 42

The Act should be amended to make it compulsory for all employers with a total workforce in excess of 250 employees to monitor by ethnicity the composition of their workforce and certain employment procedures. Employers would be expected not only to collect the data but also to include the results of monitoring in their annual report and to review these results at least once in every 3 years (39).

Which of the employer's procedures are to be monitored could be specified in the Act or in regulations made under the Act (40).

The Act should require any employer to respond to a request from the Commission within a specified time, say, 28 days, either to produce the ethnic monitoring data or review specified in the request or to certify that the total workforce at the relevant time was less than the statutory number above which monitoring was compulsory (41).

Where, either as a result of non-production of data or otherwise, the Commission is not satisfied that an employer is complying with the statutory obligation to conduct ethnic monitoring, the Commission should have powers to bring proceedings for a declaration and injunction, or, where the employer accepts the breach, to enter into a legally binding undertaking to secure future compliance (42)

Outcome of public consultation

The consultation showed widespread support for ethnic monitoring, e.g. from the Association of Chief Police Officers, BT (in principle) Employment Lawyers Association, Eversheds, TUC, Liberty although many thought that the figure of 250 was too high. This was particularly due to large proportion of ethnic minorities (44%) working in smaller enterprises. Conversely, there was opposition from the CBI and the IOD and a small number of others to the proposal. The CBI saw monitoring as "best practice" but did not want it given statutory force because they did not think it would effect change; it could be bureaucratic; and data could be unreliable due to non-respondents. They do not wish the CRE to be able to commence formal investigations on the basis of monitoring data alone. IOD's opposition was based on the misplaced assumption that monitoring would result in ethnic minorities being employed regardless of merit.

Recommendation and proposed further action

Ethnic monitoring is amongst the crosscutting issues raised in the Better Regulation Task Force's report. The proposed Government's response to the Task Force, agreed at Dr Cunningham's recent meeting of anti-discrimination Ministers, accepts the Task Force's view that the private sector should be allowed a few years to show that it will monitor of its own volition without the need for legislation. In line with this, **proposals 39 to 42 should be rejected in relation to the private sector** and the position kept under review. **In relation to the public sector, the issue of monitoring will be covered under the duty to promote.**

CHAPTER 7: POWERS OF THE CRE

Proposal 43

It should be unambiguously stated in the Act that the Commission may conduct a formal investigation – either wide ranging or confined to a particular organisation or individual – on its own initiative for any purpose connected with the carrying out of its functions. Specifically, the Commission should not be required to obtain and produce evidence of unlawful racial discrimination before embarking on an investigation of a named person or before exercising its powers to require attendance and/or the production of documents.

Outcome of public consultation

There was support among public respondents such as the Law Practitioners Association, TUC, Society of Personnel Officers to restore the Commission's powers to what they were believed to be prior to the *Prestige* case. However, there was significant opposition from the CBI, the IOD, Barclays Bank and others.

Recommendation and proposed further action

This is amongst the crosscutting issues raised in the Better Regulation Task Force's report. The response agreed at the meeting of anti-discrimination Ministers is that clarification of the law is needed and unintended impediments should be removed. **Proposal 43 should therefore be accepted in principle.**

Proposal 44

Where an investigation of any aspect of the activities of the respondent produces evidence of unlawful racial discrimination, or a breach of racial equality duties by a public body, the Commission should have powers to issue a non-discrimination notice, which requires the respondent not only to refrain from further acts of discrimination but also to give effect to specific changes in practice or procedure, or to achieve specific results in accordance with a specified timetable.

Outcome of public consultation

Nearly all public respondents supported this proposal, with the exception of the CBI and IOD. The CBI felt voluntary written agreements would be preferable and the IOD argued that the CRE should not have the

power to impose a procedural blueprint on every organisation when it can already tell them to desist from activities infringing the RRA.

Recommendation and proposed further action

Accept proposal 44 in principle as a slightly different approach has been collectively agreed in the context of the DRC Bill which Ministers have indicated we would adopt for the CRE (in summary, the CRE would be able to require the respondent to refrain from discrimination but not be able to prescribe changes to practices or procedure as proposed, only suggest them. They could require an action plan to be prepared and could resort to the courts in the event of non-compliance or the preparation of an unsatisfactory action plan).

Power to Enter into Legally Binding Undertakings

Proposal 45

The Act should provide the CRE with powers comparable to those in sections 13-17 of the Fair Employment Act 1989 which will enable the Commission, where there is evidence of discrimination which is acknowledged by the respondent, to obtain (sic) an undertaking in agreed terms from the respondent that they will take such action for promoting equality of opportunity as is, in all the circumstances, reasonable and appropriate. The undertaking would set out the steps which both parties agree are to be taken, the form of verification and timetable. Where the respondent fails to comply with the undertaking the Commission should be able to serve a notice containing directions, or apply to an industrial tribunal or county or sheriff court. The court or tribunal should be able to make an order giving effect to all or part of the undertaking; non-compliance with the tribunal's order would be referable to the High Court and dealt with as a contempt or by imposition of a fine.

Outcome of public consultation

Public comments on this proposal were mixed, split once again between business and others. The CBI (IOD did not comment) were opposed to the proposal on the basis that it is adversarial.

Recommendation and proposed further action

Partly accept proposal 45 to enable the CRE to seek (not *obtain*) agreement with organisations on remedial action to stop discrimination and reduce recourse to courts/ tribunals. Such arrangements apply under the Race Relations (NI) Order 1997 - and were envisaged for the mainland once we had a Race Equality Bill. Similar provisions are in the Disability Rights Commission Bill.

Ability to Issue Codes of Practice in New Areas

Proposal 46

The Act should be amended to enable the Commission to issue a code of practice containing such practical guidance as the Commission thinks fit in relation any area which is regulated under the Act, without the need for Parliament to amend the Act in order to enable a code to be issued in a new area.

Outcome of public consultation

There was widespread agreement for this proposal, including from the IOD and BT.

Recommendation and proposed further action

Accept proposal 46 which would enable the CRE to issue new COPs more efficiently. The Act provides other built in safeguards, requiring codes to be approved by the SoS and laid before Parliament, subject to a negative resolution procedure.

CHAPTER 8: ENFORCING THE ACT

Complaints and Formal Investigations Concerning Education

Proposal 47

The requirement in cases concerning discrimination in education to refer both individual complaints and non-discrimination notices to the Secretary of State should be removed.

Outcome of public consultation

Few public respondents commented on this proposal but those that did, supported it.

Recommendation and proposed further action

DfEE, who have the policy lead, **accept proposal 47 in principle**, providing a way can be found to ensure that a complaint being considered by the SoS under S. 496/ 497 of the Education Act 1996 cannot be simultaneously considered by the courts under the RRA. DfEE consider that repeal of s.57(5) would be likely to lead to a slight increase in litigation.

Burden of Proof

Proposal 48 - 50

The Race Relations Act should be amended to put clearly in statutory form the principles set out by the Court of Appeal in *King v Great Britain China Centre* and confirmed by the House of Lords in *Zafar v Glasgow City Council*. These enable a court or tribunal to draw an inference of discrimination on racial grounds without the need for positive evidence where there is a finding of difference of race and a finding of discrimination, and the respondent has failed to put forward any adequate or satisfactory explanation (48).

If the EC Burden of Proof Directive requires the UK to amend the Sex Discrimination Act to give effect to the burden of proof provision in the Directive, it would be appropriate for the Race Relations Act to be similarly amended (49).

Consideration should also be given to permitting a court or tribunal to draw an inference of racial discrimination by an employer where there is evidence of unreasonable treatment contrary to employment legislation and codes of practice and no evidence of the employer having taken reasonable steps to prevent discrimination of the description alleged (50).

Outcome of public consultation

Most public respondents agreed with these proposals although IOD, Eversheds and the Immigration Advisory Service, for example, raised concerns. IOD's main concern was that disgruntled employees might launch spurious claims.

Recommendation and proposed further action

Accept proposal 49 as the EC Burden of Proof Directives does, in fact, require changes to be made to UK law in respect of gender which place the onus on respondents to prove that their practices are not discriminatory. It would be appropriate to adopt this for race discrimination too. **The aim is to include this in the 3rd Session Bill. Acceptance of proposal 49 would render proposals 48 and 50 unnecessary and they should be rejected.**

Direct Access to Industrial Tribunals for Serving Members of the Armed Forces

Proposal 51

Act should be amended to enable servicemen & women to complain directly to an industrial tribunal.

Outcome of public consultation

Few public respondents commented on this proposal but those that did agreed with it.

Recommendation and proposed further action

MOD, who have the policy lead, **reject proposal 51**, as it could have a negative effect on morale and combat effectiveness if complaints had to await a tribunal hearing rather than being dealt with internally straight-away. Complaints (on race gender, equal pay, etc) can, however, be made immediately after an internal complaint has been made.

Remedies Available to Industrial Tribunals

Proposal 52

The Act should be amended to enable industrial tribunals to make recommendations regarding the future conduct of the respondent in order to prevent further acts of discrimination. The tribunal should have power to make recommendations regarding any of the respondent's practices or procedures which had been at issue and future treatment of the applicant by the respondent, including protection against victimisation, whether or not she or he remains in employment.

Outcome of public consultation

Few, but mixed, comments were offered on this proposal. The Association of Chief Police Officers, Eversheds, NHS Confederation, for example, were in support; while the CBI, for example, was opposed on the grounds that employers should be free to organise their businesses as they see fit as long as they do not discriminate unlawfully.

Recommendation and proposed further action

DTI, who have the policy lead, **reject proposal 52** as it is not a tribunal's role to determine what remedial action a company should take and nor is it in a position to enforce any recommendation it might make.

Time Limits

Proposal 53

The Commission recommends that the time limit for lodging complaints of discrimination in employment should be the same as that for complaints of discrimination in other areas, namely six months.

Outcome of public consultation

Very mixed feelings emerged from the consultation. Organisations like the Public and Commercial Services Union, UNISON, Institute of Personnel and Development and RECs were in agreement. Conversely, the CBI, Barclays Bank, Association of Chief Police Officers, Employment Lawyers Association and Eversheds, for example, were opposed.

Recommendation and proposed further action

DTI, who have the policy lead, **reject proposal 53** as tribunals already have discretion to ignore the 3 month time limit in the interest of justice. A similar proposal by the Better Regulation Task Force has been rejected for the same reasons.

Litigation Affecting a Class or Group of Individuals

Proposal 54

The Act should be amended to enable a court or tribunal to consider a complaint where the discrimination affects a number of people who wish to bring a group complaint, without the need for each person separately to bring proceedings.

Outcome of public consultation

On balance, public respondents seemed to support this proposal although the CBI said it would want to consider carefully any detailed proposals in this area before signing up.

Recommendation and proposed further action

LCD, who have the policy lead in relation to the courts, will take it into account in their wider review of class and representative actions to courts in E&W. A consultation paper will be published later this year. The position in relation to tribunals, on which DTI lead, will also need to be considered.

Responses to Section 65 Questionnaires

Proposal 55

The Commission recommends that the Act should be amended to make it a duty of a court or tribunal to consider the fact that a respondent omitted to reply, or gave an evasive or equivocal reply, to a duly served section 65 questionnaire.

Outcome of public consultation

Most public respondents, including the CBI and the Public and Commercial Services Union amongst others, agreed to the proposal. A couple, including Employment Lawyers Association, disagreed, one reason being the proposal would reduce tribunals' discretion.

Recommendation and proposed further action

Accept proposal 55 as failure or delay by employers or other defendants to complete this questionnaire can leave applicants with insufficient evidence to make their case effectively. The EOC has made a similar proposal in respect of the SDA, additionally suggesting that an 8 week reply limit be placed upon employees. DfEE are planning to accept this and we would want to do the same for race.

Race Relations Act Cases should be Heard by Fully Constituted Tribunals

Proposal 56

The provision in the industrial tribunals (Constitution and Rules of Procedure) Regulations 1993 which allows a chairman to sit on his or her own to determine jurisdiction and other matters relating to an originating application should not apply to cases under the Act.

Outcome of public consultation

Most public respondents commenting on this proposal, including CBI and the Public and Commercial Services Union, were supportive. The Association of Chief Police Officers disagreed arguing that a Chairman sitting on his/her own is more cost effective.

Recommendation and proposed further action

DTI, who have the policy lead, **reject proposal 56** as unnecessary because tribunal Chairmen are trained to a common standard on equality discrimination.

Proposal 57

To give the Commission for Racial Equality a statutory role in relation to the new protections provided under the Human Rights Act where an alleged breach of the European Convention on Human Rights (ECHR) included discrimination on racial grounds.

Outcome of public consultation

All organisations commenting on this proposal supported it.

Recommendation and proposed further action

The relevant provisions of the Human Rights Act, which would allow British citizens to vindicate convention rights in the British courts, come into force in October 2000. The Government has announced the establishment of a Joint Parliamentary Committee on Human Rights, which will have a range of functions relating to human rights. These will include conducting an inquiry into whether there is a need for a Human Rights Commission. The Government has given a commitment to consider whether the Disability Rights Commission should have a power to assist individuals in proceedings brought under the Human Rights Act in the light of the outcome of the deliberations of the Joint Parliamentary Committee. The CRE's proposal will be considered at the same time as this.

PROPOSALS FROM LIBERTY, THE SOCIETY OF LABOUR LAWYERS AND THE INSTITUTE OF PUBLIC POLICY RESEARCH

Scope of the Act

Proposal 58

“Set standards for local services for minority customers, tied to government incentives” (IPPR)

Outcome of public consultation

All organisations commenting on this proposal agreed with it with the exception of the IOD which felt that local authorities should be required to give a good service to all, regardless of race.

Recommendation and proposed further action

Reject proposal 58 as it would be inappropriate to try to set standards for local authority service delivery in the RRA.

CRE Powers

Proposal 59

“Give the Commission for Racial Equality powers to take evidence of employment discrimination of any kind direct to a tribunal” (IPPR)

Outcome of public consultation

The few responses received revealed a mixed view with the Institute of Directors and Newham Council expressing concerns that the CRE should have some evidence of discrimination for starting an investigation.

Recommendation and proposed further action

Reject proposal 59 as the CRE ought to be confident of its evidence, including the fact that someone has been discriminated against, before initiating tribunal action.

Tribunals

Proposal 60

“Legal aid should be available in tribunal cases” (Liberty); “We would urge that legal aid should be available” (SLL); “Make applicants to tribunals in race cases eligible for legal aid” (IPPR)

Outcome of public consultation

All respondents commenting on this proposal agreed with it in full or in principle.

Recommendation and proposed further action

The Government is conducting a review of all tribunals to assess the extent to which current procedures and other arrangements, including representation, comply with our ECHR and EU obligations; and to identify the options for ensuring compliance in the future. The Government believes that it would be premature to make any decisions on extending publicly funded representation in tribunal proceedings until the review has been completed.

Wider Issues

Proposal 61

"Extend the protection of the Race Relations Act to victims of religious discrimination" (IPPR);
"Legislation to outlaw discrimination on grounds of religious belief" (SLL); "No coverage of religious discrimination in the RRA" (Liberty)

Outcome of public consultation

All respondents commenting on this proposal supported it, although some felt that religious discrimination would be more appropriately dealt with separately to the RRA.

Recommendation and proposed further action

It is inconsistent that Muslims, for example, are not protected under the RRA but Jews and Sikhs are. However, there is at this stage no collective agreement for action on that front. Research is underway and a policy paper is being prepared. In the meantime, **the current policy line of awaiting the outcome of the research is recommended.**

Proposal 62

"A general review of discrimination legislation to consider the introduction of a single legislative scheme and discrimination commission" (SLL); "Establish a single Equality Commission, embracing race, sex, disability, religion and any other unlawful discrimination" (IPPR); "Harmonise UK equality legislation" (IPPR); "Liberty is also in favour of this proposal".

Outcome of public consultation

Most of the respondents commenting on this proposal supported it.

Recommendation and proposed further action

Reject proposal 62 as inappropriate at this stage. The Better Regulation Task Force recommended against merger for the time being - though they advocated more joined up working between the commissions.

Proposal 63

"Incorporate into the Race Relations Act the same positive obligations on employers that are demanded by Northern Ireland's Fair Employment Act 1989" (IPPR)

Outcome of public consultation

Few organisations commented and views were mixed.

Recommendation and proposed further action

The Fair Employment Act 1989 has in fact been replaced by the Fair Employment and Treatment (NI) Order 1998. The new legislative arrangements arise out of the Good Friday Agreement and reflect the particular circumstances in Northern Ireland. The Better Regulation Task Force has recommended against major overhaul of the equality regimes on the mainland. The recent meeting of anti-discrimination Ministers agreed that that was best. **Proposal 63 should, therefore, be rejected.**

FROM THE RT HON RICHARD CABORN MP
MINISTER FOR THE REGIONS, REGENERATION AND PLANNING



DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

ELAND HOUSE
BRESSENDEN PLACE
LONDON SW1E 5DU

TEL: 0171 890 3013
FAX: 0171 890 4539

The Rt Hon John Prescott MP
Deputy Prime Minister & Secretary of State for
the Environment, Transport & the Regions
Department of the Environment, Transport & the Regions
Eland House
Bressenden Place
LONDON
SW1E 5DU

OUR REF: IDC No. (99) 00165

DN
CC: JWH
PU

(F)

Dear John

8-17/99

RACE RELATIONS (AMENDMENT) BILL

Jack Straw's letter of 16 June to you set out his proposals for this Bill.

I have no difficulty with Jack's proposals. We have identified a number of specific detailed points which those working up the policy may need to take into account, and my officials will write to the Home Office with these.

I am sending copies of this to the Prime Minister, members of HS and LEG, other members of the Cabinet, and to Sir Richard Wilson and First Parliamentary Council.

*Yours sincerely
Richard*

RICHARD CABORN



Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Secretary of State for Health

The Rt Hon Jack Straw MP
Home Secretary
Home Office
50, Queen Anne's Gate
London SW1H 9AT

5 July 1999

DN
E.R.
PU

RACE RELATIONS (AMENDMENT) BILL

Thank you for copying to me your letter to John Prescott seeking approval to proposals for inclusion in the Race Relations (Amendment) Bill.

As you know, I am absolutely committed to tackling racism across Health and Social Services. I therefore welcome the proposal that there should be a new general provision making it unlawful for public authorities to directly discriminate on racial grounds in the exercise of any of their functions (subject to the exemptions described at paragraphs 5 and 6 of the paper).

I am happy with the recommendation that we list the public authorities to be included into the Act and with the proposal to use the list in the draft *Freedom of Information Bill* as a starting point. However, we should aim for the list to be easily amended without the need for primary legislation.

I can confirm that, in relation to Health and Social Services, we do not need to make any special provision similar to that being made regarding Chief Officers of Police, as section 32 of the Race Relations Act 1976 already achieves this.

There are some points of detail for further discussion, but we will have the opportunity for that in HS committee and through our officials working together.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

FRANK DOBSON

RESTRICTED - POLICY



QUEEN ANNE'S GATE LONDON SW1H 9AT

02 JUL 1999

The Rt Hon Stephen Byers MP
President of the Board of Trade and
Secretary of State for Trade and
Industry
1 Victoria Street
LONDON
SW1H 0ET

→ DN
~~SECRET~~
RR
PU

Dear Stephen

RACE RELATIONS (AMENDMENT) BILL

Thank you for your letter of 28 June, which agreed to my proposals for amending the Race Relations Act 1976 (RRA), with one exception.

In relation to my proposal to create a national security tribunal to hear appeals against national security certificates under the RRA, you proposed that cases arising out of employment should instead be covered in an imminent amendment to the Employment Relations Bill.

The approach to the national security defence in the Employment Relations Bill is different from the approach I had proposed. I agree, in principle, that a common approach should be taken – this is the most workable outcome for the tribunals, especially since many employment cases under the RRA also involve claims under other employment legislation.

However, I do have one concern about your proposed approach, which I know my officials and yours have discussed. You are proposing that a tribunal should be able to determine whether or not an act was done on national security grounds, but that, if it determines that this is the case, the tribunal should be bound to dismiss the case, and should not go on to determine whether the national security reason was fair or unfair. This approach is more restrictive than the approach that has already been taken in relation to the national security defence under the Northern Ireland Act 1998 (NIA), in relation to claims alleging discrimination on grounds of religious belief or political opinion. Section 90 of the NIA provides that it should be a defence where the act was done for the purpose of safeguarding national security, and where that purpose justified the

RESTRICTED - POLICY

act itself – ie the act was not an overreaction as far as genuine security needs were concerned. The need to remove the conclusive national security certificate arises from the ECHR decision in Tinelly and McElduff v UK.

We consider that a more restrictive approach to that taken under the NIA might be criticised as not adequately addressing the ECHR issues and for that reason we had proposed a broader based appeal. We accept that the judgement in Tinelly and McElduff does not require, in terms, an appeal on the merits. But whether the more restricted appeal is compatible with the ECHR is clearly arguable. Clearly it is for you to satisfy yourself that the provisions are compatible in the context of the Employment Relations Bill. However I will need to make equivalent provisions in the Race Relations (Amendment) Bill for non-employment cases and will need to be in a position to give a section 19(1) statement at that time. I understand our officials are urgently discussing this issue with a view to reaching a common view. If after further consideration it is decided that these provisions should be less restrictive I would hope it would be possible to amend them at a later stage. Subject to this, I am content for you to proceed with your proposed amendment to the RRA.

*Yours ever,
Jack*

JACK STRAW

*This letter is copied to the Prime Minister,
members of HS and LEG, other Cabinet
colleagues and to Sir Richard Wilson and
First Parliamentary Counsel.*



CABINET OFFICE
70 Whitehall, London, SW1A 2AS
Telephone: 0171-270 0400

Minister for the Cabinet Office
Chancellor of the Duchy of Lancaster

The Rt Hon John Prescott MP
Deputy Prime Minister and Secretary of State
for the Environment, Transport and the Regions
Department of the Environment, Transport
and the Regions
Eland House
Bressenden Place
London
SW1E 5DU

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/ July 1999

Dear John,

BETTER REGULATION TASK FORCE REVIEW OF ANTI-DISCRIMINATION LEGISLATION – GOVERNMENT’S FORMAL RESPONSE

This letter seeks agreement to provide a formal response to the Better Regulation Task Force review of Anti-discrimination legislation by way of the attached draft. Clearance is sought by 9 July.

I wrote to you and HS colleagues on 12 May seeking contributions to the Government’s response to the Better Regulation Task Force review of Anti-discrimination legislation.

I was grateful to receive contributions from Hilary Armstrong, Alan Milburn, Derry Irvine, David Blunkett, Frank Dobson, Nick Brown and Adam Ingram. I understand that officials in the Home Office, DfEE and Women’s Unit provided a joint contribution on cross-cutting issues, which was agreed at the meeting I had with by Mike O’Brien, David, and Margaret Jay on 24 June. DTI also made a response at official level. Officials in the Cabinet Office have collated these contributions into the draft response that is attached.

You will be aware that the Prime Minister has tasked me with overall responsibility for mainstreaming equality issues. I am therefore pleased that the draft response to the

Better Regulation Task Force is broadly very positive, and that we have been able to agree most of the Task Force's recommendations. This response, when published, will (along with the forthcoming responses to CRE and EOC proposals) signal the seriousness with which the Government intends to act on discrimination, and also the seriousness with which we take Lord Haskins's Task Force and its recommendations. You will recall that the Prime Minister's minute to me of 24 March on regulatory burdens stated that "It is essential that all Departments respond positively and expeditiously to Task Force reports...in a maximum of 60 days, and should provide a point-by-point response." I therefore need to seek agreement to respond formally to Lord Haskins no later than the week commencing 12 July. **I must therefore ask for any comments colleagues may have on the draft by Friday 9th July.**

I am particularly keen to be clear that colleagues are content with the response to recommendation 26 on clarification of the legal position on discrimination on grounds of **sexual orientation**. My meeting on 24 June with David Blunkett, Margaret Jay and Mike O'Brien agreed that we should indicate support for a non-statutory code which outlines good practice as a sensible approach to combating discrimination in the workplace on grounds of sexual orientation (parallel to the approach taken on age). We recognised, however, that this is a sensitive area and David sees merit in asking the EOC whether it is within their powers to develop such a code, rather than undertake the work internally in Government. Even so, there are bound to be continuing difficult pressures, both for statutory protection and seeking extension of such a code from the workplace to wider provision of goods and services, eg. hotels, insurance.

At our meeting we also agreed that there might be merit in taking a further look at what, if anything, can be done to further equal opportunities through the use of **Government purchasing power** (recommendation 19). The aim would be to look at the options, keeping uppermost in our minds the need to secure value for money for the taxpayer. Officials have been asked to prepare a paper on the options. I would be grateful if colleagues could indicate whether they are content with this approach. I think, however, it would be premature to reflect this in the Government's public response to recommendation 19.

With regard to the Task Force recommendation that the **EC Burden of Proof directive** be extended from gender to cover race cases as well, you will be aware that Jack Straw wrote on 16 June seeking consent to include such a provision in the Race Relations (Amendment) Bill. I have therefore left our response in square brackets, pending the outcome of Jack's request, and recognising that DfEE have yet to consult on, and assess the impact of, the EC Directive itself.

I understand that officials are liaising over handling arrangements for this response. Jack and David are likely to want to write to the heads of the CRE and EOC respectively, not least to address those of the Commissions' recommendations which are not covered by the Task Force or our response. Given my overall remit for

mainstreaming equality, I propose to invite the heads of the equality bodies in to discuss, in broad terms, our response to the Task Force, in the week commencing 12 July, diary pressures allowing.

Finally I would like to note that the work that has gone into this response, both at official and Ministerial level has represented a significant degree of joint working, and I am grateful to colleagues and their officials for their efforts on this.

I am copying this letter to the Prime Minister, members of HS committee, and Sir Richard Wilson.

As ever,

Jack.

JACK CUNNINGHAM

BETTER REGULATION TASK FORCE REVIEW OF ANTI-DISCRIMINATION LEGISLATION – GOVERNMENT RESPONSE

The Government is pleased to respond to the Better Regulation Task Force's review of Anti-Discrimination legislation, published in May 1999. The Government has responded to each of the recommendations in the report, although some of the actions recommended are more for the equality commissions and business leaders to take forward.

The Government welcomes the important contribution the Task Force has made to this crucially important area. The Government agrees with the Task Force that "Discrimination causes real suffering to many individuals, weakens the cohesiveness of our society, increases social exclusion, and denies society the talents of individuals who are discriminated against." The Government is committed to eliminating all unjustified discrimination. The Task Force report has made a valuable and challenging contribution to our thinking in these areas, and our response on each recommendation is set out below.

The Government is committed to leading by example in its own employment practices. We want the public service to reflect the full diversity of society, and it is a top priority for us to address the serious under-representation of certain groups. For example, to accelerate progress we have set targets for doubling the number of women and ethnic minorities in the Senior Civil Service over the next five years, so that by 2004/05 35% will be women and 3.2% from ethnic minorities.

The Government is committed to mainstreaming equality throughout all its functions: as policy-maker, service provider and employer. The Modernising Government White Paper makes clear our goals are inclusive policies and responsive public services that take account of the needs of different groups within society.

As the Task Force rightly points out, equality issues are covered by a number of departments. We appreciate the importance of effective co-ordination in this area. Indeed, the guidelines *Policy Appraisal for Equal Treatment*, issued in November 1998, were signed jointly by the Home Secretary, the Secretary of State for Education and Employment and the Minister for Women. As our point-by-point response makes clear, we are also encouraging joint working by the equality Commissions.

The Task Force review did not address its findings or recommendations to Northern Ireland, where the provisions in the Northern Ireland Act will be the primary vehicle for mainstreaming equality in Government policies in Northern Ireland. However, the Government will watch the developments in Northern Ireland closely, to see what lessons can be learned.

The Equality Commissions have contributed views on the Task Force recommendations, but it should be stressed that the Commissions remain independent, and their views may differ from Government on a number of the recommendations.

POINT-BY-POINT RESPONSE

1. *We are not persuaded of the need for major legislative overhaul at this stage – either in relation to the individual regimes or in bringing them together.*

The Government agrees. Our priorities for now are to ensure that existing obligations are well understood and acted on by employers and service deliverers, with the Commissions working jointly on practical means to promote this; and to enable the Disability Rights Commission to be established and bedded down, in line with our manifesto commitment.

2. *We would expect the Government to take the EOC and CRE's proposals seriously, and to carefully assess which of them it can accept and take forward and we would expect the Government to carry out full impact assessments.*

The Government agrees, noting that a number of the EOC and CRE proposals are mirrored in the Task Force's recommendations. The Government will consider seriously which of the remaining should be taken forward as priorities and take account of regulatory impact assessments in making decisions.

3. *The Race Relations Act, Sex Discrimination Act and Disability Discrimination Act should be extended to cover the public sector in so far as it is not already covered.*

The Government agrees that the Race Relations Act should be extended to cover all public services, and in the interest of consistency, agrees that the other regulatory regimes should similarly be extended, albeit with some exemptions, consistent with current Government policy on targeting specific groups (e.g. disabled people).

4. *There should be a public sector duty to promote equal opportunities. We do not believe this requires further legislation, but if this does prove necessary, we would support it. Equality issues should be integral to public sector policy-making, employment and service-delivery.*

The Government agrees that the public sector should promote equal opportunities, and will investigate both legislative and non-legislative options, taking account of the local authority experience and developments in Northern Ireland.

Whitehall departments are already expected to promote equal opportunities in its widest sense in the policy making process under Government administrative guidelines on mainstreaming.

5. *The Commissions and their sponsor departments should adopt a more strategic, joined-up and targeted approach.*

The Government agrees, and notes that the Commissions have already started down the route of issuing joint guidance and advice. The White Paper on *Modernising Government* contained a package of proposals for greater and more strategic joint working between departments.

6. *The Commissions' power to initiate investigations should be clarified in the light of the "prestige" case.*

The Government agrees that clarification is needed, and would wish to remove any unintended impediments to the investigative process. Our aim will be to achieve legal clarity, and to achieve clear, fair, appropriate and realistic criteria that the Commissions can meet before they embark on a formal investigation. We will work with the equality commissions and others to establish what can practicably be accomplished.

7. *The Commissions should work with intermediaries to help deliver justice to the greatest number of people.*

The Government agrees. This is consistent with the conclusions of its recent quinquennial review of the Equal Opportunities Commission.

8. *The Government should use the review of access to justice, legal aid reforms and the CLS to provide greater and fairer access to justice mechanisms.*

The Government agrees. The recent Civil Justice Reforms go a long way towards the goal of greater and fairer access to justice. On 26 April, the new Civil Procedure Rules, written in plain English, introduced uniform procedures in the High Court and county courts. The overriding objective is to enable the court to deal with cases justly. The court has an obligation to further this objective by actively managing cases. This is the first phase of the civil justice reform programme, which includes the introduction of new unified rules, for example, for appeals in 2000 and enforcement in 2001/02

The Government aims further to increase access to justice, by:

- Establishing a Community Legal Service through linking legal and advice centres into networks supported by co-ordinated funding;
- Establishing a "quality mark" and accreditation system for these centres, so that people can rely on the quality of advice received

- Setting up a CLS advice website to direct people to local and national services and facilitate access to on-line information;
- Reforming the legal aid scheme, which provides public funding for legal services, to secure better value for money and ensure that resources can be allocated to priorities of public policy;
- Improving the operation of conditional fees, to allow more people to fund litigation privately.

The Community Legal Service will improve access to legal advice services so that people are better able to find out what their rights are and how to enforce them. It will provide the framework for comprehensive local networks of good quality legal and advice services, supported by co-ordinated funding, and based on the needs of local people. The local networks will be achieved through the work of the Community Legal Service Partnerships, which will be set up in every local area in England and Wales. The Community Legal Service Partnerships will take account of the need for information and advice about discrimination or wider equality issues in their funding and planning decisions.

9. *The Government should seek to ensure that harmonisation occurs with European partners to a high standard in this field, and achieve the correct balance between safeguarding citizens' rights across Europe without creating unreasonable burdens on business.*

The Government agrees, and is already working with EC partners to take forward European harmonisation of equal opportunities legislation under Article 13 of the Treaty of Amsterdam.

The European Commission is developing proposals for directives to combat discrimination on a range of grounds in employment, and more broadly on race. These proposals will set common minimum standards across the European Union, whilst providing scope for member states to do more if they wish.

Proposals will be assessed in accordance with the Guide to Better European Regulation.

10. *The EC Burden of Proof Directive should be extended to cover Race and Disability discrimination. The Government should carefully assess the relative benefits and burdens (including the costs) of extending the Directive's provisions to cover race and disability as well as gender discrimination.*

DfEE have yet to consult on, and prepare a regulatory impact assessment on, the EC Directive itself.

The Government agrees that it is desirable to maintain consistency between the equality regimes[, and therefore will, subject to a regulatory impact

assessment, seek to extend the Directive's provisions to cover race discrimination legislation].

Because indirect discrimination is treated differently under the Disability Discrimination Act, there is not a direct read-across here, and it would therefore be inappropriate to simply apply the EU Directive.

11. *The Commissions should work together, and in partnership with business and others, to deliver a concerted awareness and education programme. Government and the Commissions should work towards producing simple, clear guidance on the common core of discrimination and principles in tackling discrimination. The Commissions should work together to produce joint Codes of Practice and guidance.*

The Government agrees that joint working between the Commissions themselves and with stakeholders in both the private and public sectors is the most effective approach. We welcome the strides the Commissions have already made in this direction to raise awareness and to provide joined-up advice and guidance on equality issues, and will be encouraging them to develop these initiatives further.

12. *Statutory barriers to joint working, not least around the sharing of information and the issuing of joint Codes of Practice, should be removed.*

The Government undertakes to examine what statutory barriers to joint working exist, and, where appropriate, to remove them.

The Government is proposing amendments to the Deregulation and Contracting Out Act that may make it easier to remove regulatory burdens on public bodies, including such barriers, where they exist.

13. *The legal position on sexual harassment should be clarified through a code of practice.*

Sexual Harassment has a damaging effect on those who experience it and is totally unacceptable. Case law has established that sexual harassment is considered a detriment under the Sex Discrimination Act. The Government agrees that further guidance on good practice will help employers to prevent this unwanted behaviour and provide an additional source of information to help them deal sensitively and fairly with instances of harassment if and when they do occur.

14. *Government and the Commissions should work towards developing one-stop advice services for business and citizens.*

The Government agrees. As the Task Force's report notes, DfEE is planning to pilot a one-stop equality shop. DfEE research has identified several

options for more efficient and effective local services through collaboration on gateway and information services and on good practical advice. The one stop shop pilot will try this out in 2000-02.

As regards business, the Business Link network already provides information, largely on a responsive basis, to small firms seeking regulatory advice. The Government has recently announced the prospective creation of the Small Business Service, which will take over the management of the Business Link network. The Small Business Service is also being given a major new task within government of working with the various regulatory bodies to make a step change in the ways in which small firms are given advice about regulations that affect them. We will be looking to the Small Business Service to take forward this remit both through the Business Links and increasingly through providing regulatory information electronically through the Internet. Anti-discrimination regulations would be included within this broad remit.

15. *Leading private sector organisations should be encouraged to adopt equality and monitoring policies, and to encourage and promote compliance throughout their supply chain.*

The Government agrees that leading companies should be encouraged to adopt equality best practice. The Commissions (and others, including Race for Opportunity, Opportunity 2000 and the CRE's Leadership Challenge) also already promote best practice to business, for instance on voluntary monitoring. We note that some leading private companies do also already promote equal opportunities through their supply chain.

16. *Leading companies should be encouraged to report on their equality policies and workforce monitoring in their annual reports.*

The Government agrees that it is important to encourage companies to report fully and openly on their anti-discrimination policies and that the information disclosed to the public is both meaningful and responsive to their needs. The aim of the Government's work in this area is to promote a real change in the culture within which businesses operate, and by encouraging them to incorporate best-practice methods within their everyday business processes.

In view of this, we agree that, at this stage, voluntary and best-practice methods are the most appropriate in this area. Statutory requirements – through the Companies Act or other mechanisms – should be used only where prevailing practices are shown to be inadequate and there is a large measure of agreement on the specific disclosure requirements which would produce valuable information. Requirements which lead to “boiler-plate” statements by companies simply impose burdens on management without producing real benefits to stakeholders.

In addition, the Government launched a fundamental Company Law Review in March 1998. As one aspect of its work the Review is looking at the whole

range of companies' reporting to stakeholders, e.g. social, environmental, anti-discrimination policies etc., and the manner in which these can best be addressed. The next phase of consultation on these issues is due to start early in the New Year, with the final report expected in 2001.

17. Companies should ensure that they have adequate procedures to guarantee that employees can make a complaint of discrimination without fear of victimisation, ideally through an independent "whistle-blowing" mechanism.

The Government agrees, and the Public Interest Disclosure Act 1998, which came into force on 2 July, provides protection for workers who make disclosures about wrongdoing. Disclosures can be made in various ways, including via employer-approved internal procedures. Although the 1998 Act is entirely non-prescriptive about procedures, it is expected that employers will wish to ensure that wrongdoing is identified and dealt with as soon as possible, and this is likely to promote the use of internal procedures. Such procedures may be useful in bringing attention to breaches of legal obligation, including breaches of discrimination legislation.

18. Government departments and agencies, Non-Departmental Public Bodies and other publicly funded bodies should continue to monitor and report on the race, gender and disability composition of their workforces by grade and salary.

The Government agrees, and is keen to promote good practice. Within the public sector, we are committed to being a good employer and leading by example. The Government has recently launched, with the civil service trade unions, a Joint Charter to address under-representation of ethnic minorities at senior levels. The Government is also setting targets for women, ethnic minorities and people with disabilities in the senior civil service – by 2004/05:

- 35% of the senior civil service will be women;
- women will fill 25% of the top 600 posts; and
- 3.2% of the senior civil service will be from ethnic minority backgrounds.

An equivalent target for the senior civil service for people with disabilities will be set later in 1999.

Comprehensive statistics on these matters are published annually in *Civil Service Data Summary* - available on the Internet at www.cabinet-office.gov.uk/civilservice/

19. We urge the Government to use its purchasing and funding muscle to promote equality practices among contractors and suppliers to the public sector. Public sector purchasers should be ensuring that their suppliers and contractors conform to the requirements in equality legislation, particularly with regard to employment provisions. If it

transpires that such proportionate measures would contravene Government or EC procurement policies, we would recommend the government seriously reconsiders and revisit these policies, to develop a broader range of criteria in the contracting process.

The Government's procurement policy is that all public procurement of goods and services is to be based on value for money, having due regard to propriety and regularity. Value for money is the optimum combination of whole life cost and quality, not simply initial price.

Within the policy and legal framework for procurement, Departments can reject suppliers on grounds of impropriety – for example if they have been convicted of a criminal offence or have committed an act of gross misconduct in the course of their business, including in the employment and equal opportunities areas. And poor performance in previous contracts – for whatever reason – will be a relevant matter in the selection process. However, it would not be consistent with the Government's policy to go beyond value for money to use procurement to pursue other aims.

The principles on which our EU procurement obligations are based are very much in line with our own value for money policy. The UK has, however, been pushing for some time for the detailed rules, reflecting those principles, to be simplified, clarified and brought up to date. The Commission has accepted that such work is necessary. It is, together with Member States, taking work forward in a number of areas, including looking at the extent to which social factors can be taken into account in the procurement process under the existing regime, consistent with Community law.

20. *Anti-discrimination needs to be mainstreamed into the policy-making process from the earliest stages, to avoid laws on other issues having discriminatory perverse effects.*

The Government agrees. Guidelines entitled *Policy Appraisal for Equal Treatment* were issued in November 1998 which commit the Government to mainstreaming the needs of all groups, for example women, ethnic minorities and people with disabilities, into the policy-making process. These guidelines are available on the Internet at www.cabinet-office.gov.uk/womens-unit/1999/equal.htm

The Government has additionally developed a checklist for strategic policy making which seeks to ensure that policy makers take account of the effect on a variety of groups from the very outset of the policy process. This checklist will be promulgated in August 1999.

21. *Effective equality policies, including monitoring, should become an integral aspect of Investors in People accreditation and other quality standards, e.g. the Business Excellence model.*

The Government agrees, and Investors in People UK are in the process of revising the Investors in People Standard. The emphasis will be on simplification of the language in the Standard; broadening the scope of the Standard to include issues such as recruitment and selection; and the introduction of an additional indicator on equal opportunities.

Investors in People UK expect to launch the revised Standard in October at the Investors in People conference. The new Standard will be available to organisations in early summer 2000.

Equal Opportunities are also a component of the EFQM Business Excellence Model (formerly the Business Excellence Model).

22. *Enforcement agencies should target their investigations and resources on those companies that seem to fall short of making the best efforts on equality policies and monitoring, as per the Enforcement Concordat. The Equality Commissions should sign up to the Enforcement Concordat.*

The Government agrees, and notes that the CRE is soon to become a signatory to the *Concordat*. The new Disability Rights Commission is also expected to sign, once established. The Equal Opportunities Commission has been invited to sign the *Concordat*.

The *Enforcement Concordat* commits signatories to good enforcement policies and procedures. Signatories "recognise that most businesses want to comply with the law" and undertake "to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly."

23. *Government should undertake research to assess the degree of consistency between tribunals in various parts of the country.*

The Government is formulating a programme of research into the operation of tribunals. We hope that information about the consistency of decision making will emerge from that programme.

24. *Government should undertake research to assess the merits of hearing employment cases in tribunals and goods and services cases in county courts.*

The concerns that have been voiced about formality and cost in the courts (raised in the course of the recent review of the Equal Opportunities Commission) are largely met by the introduction of the Civil Justice Reforms on 26 April. The Government would be willing to consider evidence that formality and cost are still issues that discourage the bringing of discrimination claims in the area of goods and services.

There are good reasons for the current division of business between the employment tribunals and the county courts. Discrimination claims in the field of employment have been assigned to tribunals because of their expertise in the area of employment law. Similarly, discrimination claims in the area of goods and services have been assigned to the county courts because of their expertise in general contract law. The Government would therefore need to be convinced that any problems that exist arise from the current division of business and separation of these areas of law and seem only soluble by changing the allocation of business, before committing to what could be a very difficult research project into the merits of that division.

25. *We recommend that the time limit for making a formal complaint should be extended to 6 months. Before acting in this area the Government would need to conduct a careful and comprehensive impact assessment. This would need to recognise the difficulty for small businesses of managing a prolonged period of uncertainty while an employee considers whether to make a formal complaint or not.*

The employment tribunals are intended to provide a speedy resolution of employment related disputes and to extend the time limit for making an application would be a move away from this. It would also inevitably mean that recollection of events would be less fresh. Additionally it would mean an extended period of uncertainty for employers as to whether a complaint might be made against them. The three month time limit allows sufficient time for a person to decide whether they have grounds for making a complaint and a tribunal may consider an out of time complaint if in all the circumstances of the case it considers that it is just and equitable to do so. If negotiations with an employer over an alleged infringement of the law are still in train towards the end of the three month period the person should enter a complaint to a tribunal to preserve their rights but ask for the case not to be listed for hearing until negotiations are concluded.

26. *The legal situation regarding discrimination on the grounds of sexual orientation (and with regard to transsexuals) should be clarified.*

The Government agrees. A non-statutory Code which outlines good practice is a sensible approach in combating discrimination in the workplace on the grounds of sexual orientation.

Regulations came into force on 1 May 1999 extending the Sex Discrimination Act to cover protection from discrimination on the grounds of gender reassignment in employment. Guidance for employers was published at the same time.

27. *We recommend extending the Employment Rights (Dispute Resolution) Act 1998 to cover discrimination cases, in addition to the unfair dismissal cases presently covered.*

The new arbitration service for unfair dismissal cases has not yet come into operation. When it does, its operation will be monitored and evaluated. Once evaluation is complete, consideration will be given to extending the service.

28. *Section 8 of the Asylum and Immigration Act 1996 should be repealed.*

The Government shares the Task Force's concern that employment procedures should be non-discriminatory and should not impose unnecessary burdens on business. However, we are equally determined to target those who are deliberately breaking the law by employing illegal immigrants and in some instances, subjecting them to working conditions little short of slavery.

Illegal working is a growing problem. Every other EU country now has employer sanctions and most countries punish the offence by imprisonment as well as fines. Illegal employment leads not only to abuse of vulnerable employees who will not have the full protection of the law but also serves to deny job opportunities to those who are lawfully entitled to work here. In some cases it may be possible to deal with racketeers who breach immigration controls under provisions in the 1971 Immigration Act, but controls on employers are needed as well in order to deal with the problem comprehensively.

Experience suggests that Section 8 can be a valuable tool if targeted against unscrupulous or exploitative employers. Having looked very carefully at the way in which it is operating in practice, the Government has decided to retain Section 8 to test its effectiveness in dealing with those who are engaging in systematic abuse. The proposals at Clause 15 of the Immigration and Asylum Bill for a Statutory Code of Practice will increase safeguards against discrimination.

29. *The threshold in the DDA should be reviewed, and if possible (i.e. subject to consultation with small businesses, and a thorough impact assessment) lowered, over time.*

The Government will be reviewing the threshold. Provisions in the Disability Rights Commission Bill mean that the Government would need to consult the DRC and appropriate employer and disability organisations before lowering the threshold further. Any proposals to change would be informed by a Regulatory Impact Assessment. Meanwhile, plans are being developed to raise awareness of small firms about the DDA and disability issues and to improve understanding of the implications of the DDA for employers. These will form an integral part of the "See the Person" national disability campaign, launched on 9 June. The campaign is about raising awareness of the contribution that disabled people can and do make at all levels in society and to encourage employers to play their part. It aims to make employers aware

that employing disabled people is good for their organisation, offering potential benefits and frequently involving low cost.



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 Top: DW
 R: LR
 P

SANCTUARY BUILDINGS GREAT SMITH STREET
 WESTMINSTER LONDON SW1P 3BT
 TELEPHONE 0171 925 5000

The Rt Hon DAVID BLUNKETT MP

The Rt Hon Jack Straw MP
 Home Secretary
 Queen Anne's Gate
 London SW1H 9AT

1 July 1999

RESTRICTED - POLICY

Dear Jack

RACE RELATIONS (AMENDMENT) BILL

You wrote to John Prescott on 16 June about your plans for a Third Session Bill to amend the Race Relations Act following the Stephen Lawrence Inquiry Report.

I am content with your broad approach of extending the Act to the activities of all the public services and specifically your option to cover direct discrimination only and to list the bodies to be covered. On the latter point, however, you should ensure that educational institutions are not in the list, since these are of course already expressly covered by the Act as employers, as educators and as providers of services, both for direct and indirect discrimination. Their obligations therefore go much wider than you are proposing for the new areas of coverage.

I cannot however accept your proposal to add to the Bill amendments to bring the RRA in line with the EU Burden of Proof Directive on gender. We clearly agreed in Cabinet that a third session Bill should be confined to what was directly required by Macpherson and it was with great reluctance that I and Margaret Jay accepted that parallel amendments to the SDA and DDA would have to wait. We must not lose sight of the fact that we will have difficulty justifying your core proposal to the gender and disability lobbies; and this problem will be compounded if you now seek to expand the Bill. As agreed on 24 June it is a shared priority for our Departments to seek to tackle issues of consistency between sex, race and disability legislation in a joint fourth session Bill.

There are, in any case, other technical and tactical objections to proceeding with the Burden of Proof Directive in your third session Bill. First, it adds a whole new and different dimension to a Bill whose purpose is to target the **public** sector, not the private sector, and which is aimed at services not employment. Parliament might be tempted to offer a string of amendments. Secondly, the test for indirect discrimination which the Directive introduces has a higher standard for employers and may attract controversy. It also sits oddly in a Bill seeking only to

D/EE

extend the RRA in direct discrimination as far as public services are concerned.

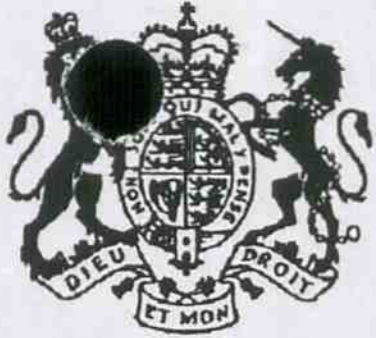
I also have reservations about your proposal for a new independent appeal Tribunal in cases where a Minister's certificate might be issued on national security grounds. Although I agree that Government needs to introduce an appeal (following the *Tinnelly and McElduff* ruling), this applies not only to the RRA but to the DDA and to the Employment Rights Act. (In the SDA the relevant clauses about employment were removed in 1988 and the provision only applies to goods, facilities and services.) I understand that because of this wider effect Stephen Byers is planning an amendment to the Employment Relations Bill which will remove Ministers' powers to exclude certain Crown employment from the rights conferred under the Employment Rights Act, RRA and DDA and to certify conclusively that an act was done for the purposes of safeguarding national security. Instead, in national security cases involving Crown employment or Crown contractors, the amendment will give Ministers the power to direct that the proceedings are to be heard by a specially comprised Employment Tribunal and for special procedures such as hearings in private to be used on Ministerial direction. This is a quicker and quite satisfactory approach, and again avoids the expansion beyond QFL's remit.

My officials are setting out for yours some of the detail behind these more technical concerns. I am copying this letter to the Prime Minister, to members of HS and LEC, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Best wishes



DAVID BLUNKETT



CABINET
OFFICE

RESTRICTED - POLICY



f

Minister for Women

70 Whitehall • London SW1A 2AS

TELEPHONE: 0171 270 0501

• FAX: 0171 270 0491

30 June 1999

DN
CC: JPH
✓

The Rt Hon Jack Straw MP
Home Secretary
Queen Anne's Gate
London
SW1H 9AT

RACE RELATIONS (AMENDMENT) BILL

I am responding to your letter of 16 June to John Prescott asking for policy agreement for this bill. I agree with your proposals, with the exception of the extension regarding the burden of proof.

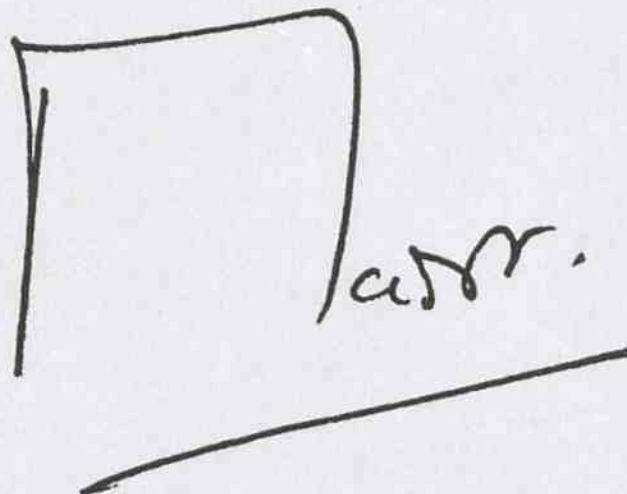
As you know, I fully support the Bill to respond to the central recommendation of the Stephen Lawrence Inquiry report. I agree that there should be a new general provision making it unlawful for public authorities to discriminate on racial grounds. I also agree that the Bill should be made compatible with the Human Rights Act in the way you propose.

However, I do not agree that this Bill is the right place for aligning the Race Relations Act with the EC Burden of Proof Directive on gender. Such an extension would go beyond the remit of the Bill agreed by QFL and Cabinet, which was to extend the RRA to the public sector. As discussed at the 'equality' meeting Jack Cunningham chaired on 24 June, we hope to tackle issues of consistency between sex, race and equality legislation in a joint Bill, possibly in the fourth session. I know that our officials are liaising on this in the follow up to the meeting on 24 June.

As your letter asks, I can also confirm that there are no areas within my responsibilities that should attract the provisions on vicarious liability.

RESTRICTED - POLICY

I am copying this letter to the Prime Minister, members of HS, LEG and QFL Committees, other Cabinet Colleagues and to Sir Richard Wilson and the First Parliamentary Counsel.

Yours ever
 J. Jay

THE RT HON BARONESS JAY OF PADDINGTON
MINISTER FOR WOMEN



The Rt Hon John Morris QC MP

f
9 BUCKINGHAM GATE
LONDON SW1E 6JP

0171-271 2460

The Rt Hon Jack Straw, MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

Top:DW
cc:tl
W

30 June 1999

Thank you for copying to me your letter to John Prescott seeking approval for a proposed extension of the Race Relations Act to cover all public services and to two proposed legislative amendments to the Race Relations (Amendment) Bill.

The proposal to have a general provision to cover all authorities in respect of any function is somewhat problematic for the Crown Prosecution Service. Where proceedings are already in being it would cause delay if it were possible to have parallel proceedings and arguably the courts are in a position to resolve allegations of discrimination within the ordinary course of criminal proceedings.

Outside that particular category the Crown Prosecution Service as prosecutors have wider concerns which touch upon their independence. I understand that any consultation at official level that may have taken place has not involved the Crown Prosecution Service or other prosecutors and I suggest that there should be an urgent meeting of officials to refine what the policy might be in relation to prosecutions.

With regard to the remaining aspects of your proposals I am broadly content subject to small points that can be resolved at the meeting.

JOHN MORRIS



DEPARTMENT OF SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 0171 - 238 0800

From the Secretary of State for Social Security

RESTRICTED - POLICY

The Rt Hon Jack Straw MP
Home Secretary
Queen Anne's Gate
London SW1H 9AT

(f)

DN
RR
PU

30 June 1999

RACE RELATIONS (AMENDMENT) BILL

Thank you for copying to me your recent letter to John Prescott (and accompanying paper prepared by your officials) in which you helpfully summarise the policy to be given effect through the Third Session Race Relations (Amendment) Bill agreed by Cabinet in light of the Stephen Lawrence Inquiry Report.

I can see why you want to proceed with this recommendation, though vicarious liability in this area does raise some interesting questions. And there will be some points of detail on which my officials will need to liaise with yours in due course.

In particular, it will be important that officials explore further how the enforcement proposals would interact with social security decision making and appeals procedures.



F. R.

There are no areas within my responsibilities, analogous to chief officers of police, that should attract the provisions on vicarious liability. However I want to reflect on that further.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Tom

Ah

ALISTAIR DARLING



RESTRICTED - POLICY

The Rt Hon Stephen Byers MP
Secretary of State for Trade and Industry

(f)



Top:ll
cc:DN
RJ

→ DJ

The Rt Hon Jack Straw MP
Secretary of State
The Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

Secretary of State
Department of
Trade and Industry

1 Victoria Street
London SW1H 0ET

Direct line
0171 215 6272

DTI Enquiries
0171 215 5000

e-mail
TLO.Byers@tlo.dti.gov.uk

29 June 1999

Dear Jack,

RACE RELATIONS (AMENDMENT) BILL

Thank you for the copy of your letter of 16 June to John Prescott seeking agreement to the policy to be given effect through the third Session Race Relations (Amendment) Bill agreed by Cabinet in April 1999. You also seek approval for two additional proposals to be included in the Bill.

I am happy to agree your proposals with one exception. You propose that an appeals tribunal should be created to hear appeals against national security certificates issued under the Race Relations Act. This week I am to table an amendment to the Employment Relations Bill relating to access to employment tribunals for certain Crown Servants. The approach is that Ministers of the Crown should no longer be able to certify conclusively that an act was done for the purpose of safeguarding national security in respect of proceedings which could be taken before an employment tribunal. Instead, in national security cases involving Crown employment or Crown contractors, the amendment will provide Ministers with the power to direct that the proceedings are to be heard by a specially comprised tribunal and for special procedures, including hearings in private, to be used, again on Ministerial direction.

JW6203

RESTRICTED - POLICY

dti

Department of Trade and Industry



Given that the Race Relations Act and the Disability Discrimination Act both contain conclusive certificate powers, I believe that cases arising out of employment under both Acts should be included in the amendment to the Employment Relations Bill to ensure a common approach. My officials are in contact with yours and David Blunkett's about this.

I am copying this letter to the Prime Minister, members of HS, LEG and QFL, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

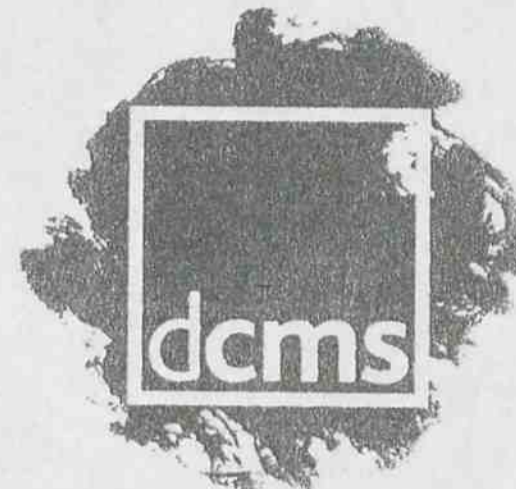
Yours,

A handwritten signature in cursive script that reads "Stephen Byers".

STEPHEN BYERS

C99/07522/03494

The Rt Hon Jack Straw MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT



29 June 1999

Top: DJ
H. RR
P

Dear Jack,

RACE RELATIONS (AMENDMENT) BILL

Thank you for copying to me your letter of 16 June to John Prescott seeking agreement to the provisions of the Race Relations (Amendment) Bill to be introduced in the third Session.

I am content with the basic proposals. In particular, I agree with the arguments for listing those public authorities which fall within the scope of the Bill and with the use, as a starting point, of the list in the Schedule to the Freedom of Information Bill - provided that, as with FOI, it is envisaged that all other publicly funded bodies, such as NDPBs, will be eligible for inclusion by Order in the scope of the legislation. There are no areas within my responsibility that I would wish to nominate for inclusion in the provisions for vicarious liability which will apply to chiefs of police.

I am copying this letter to the Prime Minister, members of HS, LEG and QFL, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Yours ever
Chris

CHRIS SMITH

29. JUN. 1999 8:48

DR M MOWLAM STORMONT

NO.548 P.1/2

Northern Ireland Office
Block B, Castle Buildings
Belfast BT4 3SGTOP DN
cc: u/p

F

The Rt Hon Jack Straw MP
Home Secretary
Queen Anne's Gate
LONDON
SW1H 9AT

28 June 1999

Dear Jack,

RACE RELATIONS (AMENDMENT) BILL

Thank you for copying to me your letter to John Prescott seeking Cabinet's approval to proposals for inclusion in the Race Relations (Amendment) Bill.

As you are aware Northern Ireland has its own separate Race Relations legislation. Any amendments to the Northern Ireland legislation following the passage of this Bill will, in due course, be the responsibility of the Assembly.

I have no objection to the proposal to insert in the Race Relations Act a general provision outlawing discrimination on racial grounds by public authorities. Similar provisions covering discrimination on the grounds of religious belief and political opinion already exist in the Northern Ireland Act 1998 and have clearly been drawn upon in the development of the policy.

I welcome your proposals in relation to chief officers and police and, as Adam Ingram said in Parliament, we will want to see comparable changes

SOS/STRAW/BB

29. JUN. 1999 8:48

DR M MOWLAM STORMONT

NO.548 P.2/2



in Northern Ireland. I will however be awaiting the report of Chris Patten's Commission before seeking to bring forward legislation.

In Northern Ireland we are already well advanced in establishing a tribunal to hear appeals against national security certificates and our Race Relations legislation has already been amended to take account of that.

The proposal to align the Race Relations Act provisions with those of the EC Burden of Proof Directive seems clearly sensible. It will have representations for Northern Ireland's Fair Employment and Treatment legislation which the Assembly will want to consider.

You also asked for additions to or deletions from the list proposed as a starting point for defining public authorities. As the Bill will not extend to Northern Ireland there is no need to refer to Northern Ireland bodies.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

MARJORIE MOWLAM



ST ANDREW'S HOUSE
EDINBURGH EH1 3DG

The Rt Hon Jack Straw MP
Secretary of State
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

→ file
Top: *ll*
C:D
R

28 June 1999

Dear Secretary of State

RACE RELATIONS (AMENDMENT) BILL

Thank you for copying to me your letter of 16 June to John Prescott. You seek agreement to give effect, through the third session Race Relations (Amendment) Bill, to the policy agreed by Cabinet in April 1999 in the light of the Stephen Lawrence Inquiry.

I am happy to give my full agreement and support to the proposals for the Bill. You will appreciate however that the Bill's provisions will extend to Scottish public authorities operating in devolved areas. It would be helpful therefore to keep me informed and to involve Scottish Ministers in compiling the list of public authorities to be covered. I am sure that they will want to give strong support to your proposals. I will ask my officials to liaise with yours on working out the details.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Yours sincerely

John Reid

ff **JOHN REID**

*Approved by the Secretary of State
and signed in his absence*

*cc LL (1st 3 pages)
v rch prc.*

DN

From: Liz Lloyd
Date: 28 June 1999

Prime Minister

cc: David North
David Miliband
Jeremy Heywood
Sharon White

(F)

Race Relations (Amendment) Bill

In the light of the McPherson report, the government accepted the need to extend the Race Relations Act to public bodies.

Jack is also seeking to use this opportunity to add two proposals.

On the main point, Jack suggests that we use a list approach rather than a functional approach in defining public bodies. This is the same list as is used in the FOI Bill, and I think gives more certainty than a functional definition.

He also suggests that the general provision should be confined to direct discrimination and not extended to indirect discrimination - this must be right.

He also accepts the McPherson recommendation that Chief Officers of Police should be made vicariously liable for racial discrimination by police officers. This would make the regime equivalent to that for employers being responsible for the actions of their employees (e.g. local government). With explanation I think this is acceptable, although it seems quite far-reaching.

*It is
much
too
much*

*More details
- approvals
- impact.*

On the new proposals, one is uncontroversial and is needed for ECHR compatibility reasons, to establish an appeals tribunal for claims which raise

RESTRICTED - POLICY

- 2 -

issues of national security. [Currently the Race Relations Act provides that an act of racial discrimination is not unlawful if carried out for the purpose of safeguarding national security on the basis of the Home Sec's certificate. There is no right of appeal. The Home Office believes this is incompatible with Article 6 of the ECHR. I think this is right.

There is however, one measure which the Home Office believe will be uncontroversial, but I think will receive attention. That is the proposal to extend the EC Burden of Proof Directive (BPD) to race cases.

The UK must implement the BPD by July 2001 for sex discrimination cases in employment law. We can do this without primary legislation.

There are strong reasons on the grounds of consistency for having the same burden of proof regime and the same definition of indirect discrimination for race and sex discrimination cases.

However, changing the burden of proof so that the respondent has to prove that there has been no breach of the principle of equal treatment will not be welcomed by all in the business community.

The Regulatory Impact Assessment has not yet been completed.

There is another read across here. The government is preparing its response to the Better Regulation Taskforce's Report on Discrimination, and we need to make sure that we have the balance of the package thought through.

I want to see it

RESTRICTED - POLICY

I think it would be useful to indicate that we cannot be in a position to support including this in the legislation until a regulatory impact assessment has been undertaken and we have had a chance to balance this proposal against others.

*Lij I agree strongly.
we must not get
carried away here*



(F)

Treasury Chambers, Parliament Street, London, SW1P 3AG

The Rt Hon Jack Cunningham MP
Minister for the Cabinet Office
70 Whitehall
London
SW1A 2AS

DN
CC: OB
~~PO~~

GN
~~LL~~
SW

18 June 1999

Dear Minister,

Over
can we discuss?
we will need to get
to TB
EJ

~~DN~~
Yours
Over

BETTER REGULATION TASK FORCE REVIEW OF ANTI - DISCRIMINATION LEGISLATION: GOVERNMENT'S FORMAL RESPONSE

I have seen your letter of 12 May to John Prescott, copied to colleagues, seeking responses to the Task Force's recent review of anti - discrimination legislation.

2. There is much in the Task Force's review which I support, particularly measures which reduce the cost of compliance on SMEs. The report usefully highlights the need for consistency in approach across the agencies and sponsor Departments, the need to ensure that anti- discrimination regimes and the levers, mechanisms and enforcement strategies used are proportionate, and, particularly important in view of the legal complexities SME's face in this area, the need for clear and simple guidance drawn up in consultation with employers.



3. However I cannot endorse the Review's recommendation to repeal Section 8 of the Asylum and Immigration Act 1996. Illegal working is a growing global problem and therefore we have to have a way of dealing with the problem in the UK. The report mentions fears that Section 8 would place an unacceptable burden on business. I understand however that, if they wish to secure the statutory defence, employers in most cases have to do very little. I also understand that the Home Office share the Review's concerns that employers may be going further than Section 8 requires and are adopting discriminatory recruitment practices. Hence their proposal to include in the Immigration and Asylum Bill 1999 a provision for a Statutory Code of Practice to strengthen guidance to employers.

4. We see some merit in the recommendation to include a public sector duty to promote equal opportunities (Certainly, in the current post Macpherson report people may look to the public sector to give a lead). The scope for a more targeted approach by the various anti-discrimination Commissions and their sponsor departments - the Report flags up the possibility of a single "anti-discrimination" Commission - is something which would pay further examination. However, it is important that in considering taking forward any of these measures they are properly costed and set against other departmental priorities.

5. The recommendation for "the Government to use its purchasing and funding muscle to promote equality practices among contractors and suppliers to the public sector" - whilst superficially attractive, is I believe misguided. The proposal is not compatible at all with the Government's procurement policy, which is that all public procurement of goods and services is to be based on value for money, having due regard to propriety and regularity. This policy has recently



been restated in guidelines issued to Government Departments. It has also been endorsed many times since the General Election, in the context of various proposals to use procurement to promote employment, social and environmental matters.

6. The procurement guidelines make clear that it would be inconsistent with the value for money objective for procurement to be used to pursue other aims. This is an important point. While we should, quite rightly, seek to ensure that the policy and legal framework for procurement does not stand in the way of meeting other policy objectives, we should not allow the value for money objective to be distorted by such policies and, thus, reduce the benefits to the taxpayer. Other policies should be pursued in their own right - by specific measures - rather than by distortion of the procurement process.

7. However, within the policy and legal framework for procurement, Departments can reject suppliers on grounds of impropriety - for example, if they have been convicted of a criminal offence or have committed an act of gross misconduct in the course of their business (including in the employment and equal opportunities areas). And poor performance under previous contracts - for whatever reason - will be a relevant matter in the selection process.

8. In terms of our EU obligations on procurement, the principles on which they are based are very much in line with our own procurement policy. The UK has, however, been pushing for some time for the rules to be simplified, clarified and brought up to date to reflect market developments and modern procurement practices. The Commission has accepted that improvements are necessary. It is, together with Member States, taking work forward in a number of areas. This



includes looking at the extent to which social factors can be taken into account in the procurement process under the current regime, consistent with Community law. Council Conclusions, during the UK Presidency, stated that "the legislative framework for public procurement should not hinder the pursuit of other Community policies, for example on...social issues".

9. I am copying this letter to the Prime Minister, members of HS committee, and Sir Richard Wilson.

Yours sincerely

Alan Milburn

p.p. ALAN MILBURN

*[Approved by the Chief Secretary
and signed in his absence]*



(A)

Treasury Chambers, Parliament Street, London, SW1P 3AG

The Rt Hon Jack Cunningham MP
Minister for the Cabinet Office
70 Whitehall
London
SW1A 2AS

DN
Cer. OS
PU

Lizk
How should we best get our
own concern across on contract
compliance? Letter to Dr Jack?

MW

DN 18 June 1999

~~DN~~
We need to speak to OS first. He said
tho "we" wd support if a JS, but I
think that OS will probably not.
LJ

Dear Minister,

**BETTER REGULATION TASK FORCE REVIEW OF ANTI -
DISCRIMINATION LEGISLATION: GOVERNMENT'S FORMAL
RESPONSE**

I have seen your letter of 12 May to John Prescott, copied to colleagues, seeking responses to the Task Force's recent review of anti - discrimination legislation.

2. There is much in the Task Force's review which I support, particularly measures which reduce the cost of compliance on SMEs. The report usefully highlights the need for consistency in approach across the agencies and sponsor Departments, the need to ensure that anti-discrimination regimes and the levers, mechanisms and enforcement strategies used are proportionate, and, particularly important in view of the legal complexities SME's face in this area, the need for clear and simple guidance drawn up in consultation with employers.



3. However I cannot endorse the Review's recommendation to repeal Section 8 of the Asylum and Immigration Act 1996. Illegal working is a growing global problem and therefore we have to have a way of dealing with the problem in the UK. The report mentions fears that Section 8 would place an unacceptable burden on business. I understand however that, if they wish to secure the statutory defence, employers in most cases have to do very little. I also understand that the Home Office share the Review's concerns that employers may be going further than Section 8 requires and are adopting discriminatory recruitment practices. Hence their proposal to include in the Immigration and Asylum Bill 1999 a provision for a Statutory Code of Practice to strengthen guidance to employers.

4. We see some merit in the recommendation to include a public sector duty to promote equal opportunities (Certainly, in the current post Macpherson report people may look to the public sector to give a lead). The scope for a more targeted approach by the various anti-discrimination Commissions and their sponsor departments - the Report flags up the possibility of a single "anti-discrimination" Commission - is something which would pay further examination. However, it is important that in considering taking forward any of these measures they are properly costed and set against other departmental priorities.

5. The recommendation for "the Government to use its purchasing and funding muscle to promote equality practices among contractors and suppliers to the public sector" - whilst superficially attractive, is I believe misguided. The proposal is not compatible at all with the Government's procurement policy, which is that all public procurement of goods and services is to be based on value for money, having due regard to propriety and regularity. This policy has recently



been restated in guidelines issued to Government Departments. It has also been endorsed many times since the General Election, in the context of various proposals to use procurement to promote employment, social and environmental matters.

6. The procurement guidelines make clear that it would be inconsistent with the value for money objective for procurement to be used to pursue other aims. This is an important point. While we should, quite rightly, seek to ensure that the policy and legal framework for procurement does not stand in the way of meeting other policy objectives, we should not allow the value for money objective to be distorted by such policies and, thus, reduce the benefits to the taxpayer. Other policies should be pursued in their own right - by specific measures - rather than by distortion of the procurement process.

7. However, within the policy and legal framework for procurement, Departments can reject suppliers on grounds of impropriety - for example, if they have been convicted of a criminal offence or have committed an act of gross misconduct in the course of their business (including in the employment and equal opportunities areas). And poor performance under previous contracts - for whatever reason - will be a relevant matter in the selection process.

8. In terms of our EU obligations on procurement, the principles on which they are based are very much in line with our own procurement policy. The UK has, however, been pushing for some time for the rules to be simplified, clarified and brought up to date to reflect market developments and modern procurement practices. The Commission has accepted that improvements are necessary. It is, together with Member States, taking work forward in a number of areas. This



includes looking at the extent to which social factors can be taken into account in the procurement process under the current regime, consistent with Community law. Council Conclusions, during the UK Presidency, stated that "the legislative framework for public procurement should not hinder the pursuit of other Community policies, for example on...social issues".

9. I am copying this letter to the Prime Minister, members of HS committee, and Sir Richard Wilson.

Yours sincerely

Alan Milburn

p.p. ALAN MILBURN

*[Approved by the Chief Secretary
and signed in his absence]*

(f)

Top: HAPS
PU



QUEEN ANNE'S GATE LONDON SW1H 9AT

16 JUN 1999

The Rt Hon John Prescott MP
Deputy Prime Minister and Secretary of
State for the Environment, Transport and
the Regions
Eland House
Bressenden Place
London
SW1A 0AA

~~Martin Stanley, RCU~~

Any comments on this?

David North

LGK

Do you think this is along
the right lines? Should we
put to the PM? If so,
after other Ministers have commented?

~~DN~~
Most seems to
flow from Jack's statement.
But we could
ask better people to
check it's
OK

DN

Dear John,

RACE RELATIONS (AMENDMENT) BILL

I am writing to seek agreement to the policy to be given effect through the third Session Race Relations (Amendment) Bill agreed by Cabinet in April 1999 in the light of the Stephen Lawrence Inquiry report. I am also seeking approval to include in the Bill two additional minor and uncontroversial proposals. One of these is necessary to make the Bill compatible with the Convention rights set out in the Human Rights Act.

The proposals, set out in detail in the attached paper prepared by my officials, are that:

- there should be a new general provision making it unlawful for public authorities to discriminate on racial grounds in the exercise of any of their functions. The provision should cover direct discrimination and victimisation, but not indirect discrimination. It should be subject to two general exemptions, so as not to penalise conduct which is already unlawful under other provisions of the Race Relations Act, or discrimination which is authorised by other statutory provisions;
- public authorities should be defined by reference to a list, taking the list in the draft Freedom of Information Bill as a starting-point;
- proceedings against public authorities arising from the new general provision should be brought in the county court or sheriff's court and should be subject

SKP 17/6/99

RESTRICTED - POLICY

to the same procedures and remedies as existing non-employment cases under the Race Relations Act;

- Chief officers of police should be made vicariously liable for racial discrimination by police officers;
- an appeals tribunal should be created to hear appeals against national security certificates issued under the Race Relations Act. This would remove an ECHR incompatibility in the existing Act and enable a statement of compatibility under section 19 of the Human Rights Act to be made;
- the provisions of the Race Relations Act on the burden of proof and the definition of indirect discrimination should be aligned with those in the EC Burden of Proof Directive, which will have to be applied to the relevant provisions of the Sex Discrimination Act by July 2001.

I would expect a Bill containing these proposals to run to 8-15 clauses and 2 Schedules.

If colleagues are able to agree these proposals **by 30 June**, my officials expect to send the main part of the instructions to Counsel by the end of July. In providing comments, it would be particularly helpful if colleagues could suggest from within their own areas of responsibility, additions to or deletions from the list proposed as a starting point for defining public authorities, bearing in mind the overall policy aim. It would also be helpful if colleagues could confirm that there are no areas within their responsibilities, analogous to chief officers of police, that should attract the provisions on vicarious liability.

I am copying this letter to the Prime Minister, members of HS and LEG, other Cabinet colleagues and to Sir Richard Wilson and First Parliamentary Counsel.

Yours ever,
Jack.

JACK STRAW

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PAPER FOR HS COMMITTEE MEMBERS ON THE PROPOSED BILL AMENDING THE RACE RELATIONS ACT 1976

INTRODUCTION

1. The Stephen Lawrence Inquiry Report recommended that *the full force of the Race Relations legislation should apply to all police officers, and that Chief Officers of Police should be made vicariously liable for acts and omissions of their officers relevant to that legislation*. In its response the Government accepted this recommendation and went further promising to bring all public services within the scope of race discrimination legislation. Cabinet has approved a slot for a third Session Race Relations (Amendment) Bill to take this forward. A number of decisions are now needed to enable instructions to Counsel to be prepared.

POLICY ISSUES TO BE DECIDED

How should the Act be extended and whether any exemptions should apply?

2. The Act makes it unlawful to discriminate in relation to employment and training, education, and the *provision of goods, facilities and services*. Although it applies to discrimination by public authorities in these areas, it does so only in relation to acts of public authorities that are akin to acts done by a private person. This is the effect of the House of Lords judgement in the *Amin* case in 1983.

3. The change that has been sought by the CRE and commentators such as Lord Lester, is to reverse the *Amin* decision. However, while this would have the effect of outlawing all acts of discrimination by public authorities in areas covered by the Act, it would not make discrimination by public authorities unlawful in areas which are not currently covered. For example, law enforcement and immigration controls do not fall within the meaning of the *provision of goods, facilities and services*. Simply reversing the *Amin* decision, therefore, would not meet the Government's commitment to extend the Act to all public services.

4. An alternative approach, which would meet the CRE's aim and the Government's policy objective, would be to insert a general provision into the Act making it unlawful for a public authority to discriminate on racial grounds in the exercise of any of its functions. There is a precedent for such a provision in section 76 of the Northern Ireland Act 1998.

5. A general provision would, however, overlap with existing specific anti-discrimination provisions in the Act. Therefore, to avoid creating two separate causes of action in relation to the same conduct, it would be necessary to exempt from the general provision conduct which is unlawful by virtue of another provision in the Act.

6. It is not proposed that the general provision should make unlawful any discriminatory act specifically provided for by statute, e.g. the requirement that non-EU citizens require leave to enter and remain in the UK. Such an exemption already exists in relation to discrimination in the areas currently covered by the Act and it would be consistent to extend this to the general provision. The effect would be that it would not be unlawful for public

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authorities to discriminate on racial grounds in the exercise of functions where specific statutory authority provided for it.

7. **HS Committee is recommended to agree that the policy objective of extending the Act to all public authorities should be pursued through the introduction of a general provision, subject to the two exemptions described at paragraph 5 and 6.**

How should public authorities be defined?

8. The basic choice of definition is between a functional approach; and a list approach, specifying categories of public authority, which could be updated by order.

9. The pros and cons of a functional approach are:

- it is used in the Human Rights Act 1998 and, as the widest-ranging definition in use, would arguably come closest to meeting the policy aim of extending the Race Relations Act to all public services;
- it would make sense to align the definitions in the Human Rights Act and the Race Relations Act as far as possible given that some acts by public authorities will be unlawful under both statutes;
- it is the approach recommended by the CRE in their Third Review;
- but it brings an element of uncertainty as in many cases it will fall to the courts to decide whether a body is exercising public functions and is therefore a public authority for the purposes of the Race Relations Act;
- the policy objectives justifying use of the approach in the Human Rights Act are unique to that Act and do not apply to other of legislation. In areas, such as freedom of information, it has been judged essential to provide a precise definition.

10. The pros and cons of adopting a list approach are:

- the Government may decide in future to impose a complementary duty on public authorities to promote race equality as recommended by the CRE. Where a positive duty to do something is proposed, rather than a negative duty not to do something unlawful, it is much more important for a body to be clear about whether it is subject to the duty. Given that a list approach would be needed if a statutory duty to promote race equality were introduced in the future, there is some merit in taking an approach now which would suit a possible new duty to promote;
- the general anti-discrimination provision in the Northern Ireland Act 1998 relies on a list of public authorities;
- but it is, in principle, less wide in its coverage than a functional approach (though the FOI approach has shown it can still be drawn very widely).

11. The most recent attempt by the Government to define *public authorities* is contained in the draft Freedom of Information Bill. It would seem sensible to use this as a starting point (copy of relevant provisions at **Appendix A**). Scottish public authorities would need to be added (as the Race Relations Act is a reserved matter) and decisions taken on whether to include any prosecuting or judicial bodies, for example. **A case can be made for either**

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approach but on balance we recommend using a list approach because it has greater certainty and would be compatible with any future duty to promote race equality.

Direct and indirect discrimination?

12. Direct racial discrimination occurs when a person treats another person less favourably on racial grounds than he or she treats, or would treat, someone else. It is concerned with individual disadvantage (focusing on the treatment of the complainant and a comparator). Indirect racial discrimination consists of treatment which may be described as equal in a formal sense between different racial groups but which is discriminatory in its effect on one particular racial group. It is concerned with group disadvantage (essentially where a requirement excludes black people at a higher rate than white people).

13. The Race Relations Act prohibits direct and indirect discrimination in the fields of employment and training, education, and the provision of goods, facilities and services. Extension of both to the public functions that would be caught by the proposed general provision would, therefore, be consistent with the policy aim of applying the full force of race relations' legislation to all public services. It would also avoid criticism that the Government was being easy on itself.

14. There are, however, arguments for limiting the proposed general provision only to acts of direct discrimination by public authorities because:

- applying it to acts of indirect discrimination would have uncertain and potentially far-reaching effects on areas of core Government policy. Any policy or practice that has a different impact on different racial groups could be challenged in the courts. For example, ethnic minority defendants are more likely to receive a custodial sentence and less likely to receive a community sentence than white defendants.
- the approach taken in this Bill is likely to be the starting-point for extending anti-discrimination legislation on gender and possibly disability. Making indirect discrimination by public authorities unlawful on grounds of gender would, for example, affect large areas of tax and benefit policy which affect men and women differently. Such policies may also affect different ethnic groups differently. Wide-ranging exemptions would be necessary to avoid a conflict of policies;
- the Government resisted pressure to make indirect discrimination by public authorities unlawful in the Northern Ireland Act because of the uncertainties about what would constitute justification of the requirement or condition which resulted in disproportionate impact and the unforeseeable consequences for the law, the legislature and the executive;
- difficult issues about the remedies would otherwise arise. For example, should indirect discrimination be actionable and should there be a right to damages? The availability of damages might encourage speculative complaints. It might not be clear who should be entitled to damages as a result of a Government policy which had an indirectly discriminatory effect on a whole section of society.

15. There is a political judgement to be made, balancing the problems for Government if indirect discrimination is included against the likely adverse reaction to a Race Relations

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(Amendment) Bill which excludes it. **But overall the arguments for limiting the proposed general provision to direct discrimination by public authorities outweigh those for including it. HS Committee is recommended to agree.**

Victimisation?

16. The Race Relations Act also prohibits discrimination by way of victimisation, e.g. where an employer or service provider treats an individual less favourably than another because he or she has brought proceedings against them for racial discrimination. It would be consistent with the policy of extending the Act to all public services to carry through the victimisation provision into the proposed general provision. **There is no reason for not extending the Act's victimisation provisions to the proposed general provision and HS Committee is recommended to agree to this.**

Enforcement

17. The Act provides a right of individual access to civil legal remedies for racial discrimination. Complaints in the employment field (where most cases arise) are made to employment tribunals. Complaints in other fields are made to the county or sheriff court.

18. In England and Wales, only a small number of county courts (16 out of 247) have been designated as having a race relations jurisdiction. To cope with the additional workload that might arise from the proposed general provision, it may be necessary to designate additional courts. This would require the appointment of additional assessors who were expert in the field of race relations to assist the court, resulting in minor additional costs. County and sheriff courts are, however, less efficient at dealing with large numbers or complicated cases.

19. Officials did consider whether to set up a new tribunal system for example. But the structural costs and other complexities are too significant to be dealt with in a limited Bill and the benefits, if any, are not clear-cut. The remedies available to the county or sheriff court in race discrimination cases are wider than tribunals and include damages, injunctions, and any other remedy available to a county court or the High Court. The system is also cheap and efficient. 95% of claims never go to trial and those that do tend to be uncontested.

20. Officials also considered whether some form of statutory filter mechanism should apply to cases arising under the proposed general duty. This could take the form of mediation procedures, requiring the leave of the court to bring a case, appointing an ombudsman, or providing for complaints to be considered first by the Secretary of State (there is a precedent in the education provisions of the Race Relations Act – although the CRE has recommended abolishing it).

21. The attraction of a filter mechanism would be to reduce what could otherwise be a high volume of cases brought against public authorities with the costs that would be entailed. But it is not at all certain that a filter would have that effect. It could simply lengthen a process which could still end up in court in many cases, with people claiming damages for discriminatory conduct.

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22. In practice, it would be sensible for authorities to establish their own mechanisms for trying to resolve cases to avoid proceeding to court. Moreover, there would be presentational difficulties if special arrangements were made to restrict the number of race discrimination cases going to court, particularly if the general provision only covers direct discrimination as recommended above. As before, the complexities are too significant for a limited Bill and the overall benefits are not beyond doubt. **HS Committee is therefore recommended to agree that cases against public authorities arising from the proposed general provision should be brought in the county or sheriff court and be subject to the same provisions as currently apply in other non-employment cases, e.g. time limits and remedies.**

Vicarious liability of chief officers of police

23. To make chief police officers vicariously liable for racial discrimination by police officers can be done by a stand-alone provision for the police. Consequential amendments may be needed to section 88 of the Police Act 1996 which in general allows Chief Officers of Police to be proceeded against for the wrongful acts of police officers.

24. Officials have considered whether similar provisions are needed for other public services. Police officers are in a special position because they are office-holders not employees and people they discriminate against will generally want to bring proceedings against the chief officer rather than against the individual police officer. We do not need to legislate to make employers liable for the actions of employees, such as local government officials and those providing other services in the public sector, because section 32 of the Act already achieves that. Nor do we think there is any point in legislating for other categories of office-holder in senior positions, such as persons appointed to NDPBs, because they or the body of which they are a member can be proceeded against without the need to create a responsible body. Home Office officials are not aware of any other public servants in the position of police officers. **HS Committee is recommended to agree legislating on this point only for the police through a stand-alone provision in the Act unless they or colleagues suggest additions.**

ECHR incompatibility: national security certificates

25. Section 19 of the Human Rights Act requires a Ministerial statement about the compatibility of new Government legislation with the Convention rights. In order to qualify for a statement of compatibility under the Act, a Bill to amend existing primary legislation must not only be compatible itself but should remedy any ECHR incompatibility in the underlying legislation which is relevant to its provisions.

26. Section 42 and section 69 (2) of the Race Relations Act together provide that an act of racial discrimination is not unlawful if done for the purpose of safeguarding national security, and that a Ministerial certificate is conclusive evidence that it was done for that purpose. There is no right of appeal. We are not aware of any Ministerial certificates being issued under the Act. This provision is now believed to be incompatible with Article 6 (1) of the ECHR following the judgement of the European Court of Human Rights in the 1998 case of Tinnelly and McElduff v UK. This concerned the issue of a Ministerial certificate under the Fair Employment (Northern Ireland) Act 1976 which had the effect of halting proceedings for discrimination on the ground of religious belief or political opinion. The Court held that the

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issue of the certificate breached the applicants' Article 6 right of access to a court, since the conclusive nature of the certificates had the effect of preventing a judicial determination of the merits of their underlying discrimination complaints.

27. The Government responded to the judgement by providing in the Northern Ireland Act 1998 for an independent appeals tribunal to hear appeals against national security certificates under the relevant Northern Ireland legislation. The issue has arisen in other areas (the Data Protection Act 1998 and Freedom of Information Bill) where provision has also been made, although on a simplified basis, for an independent appeals tribunal to hear appeals. It is directly relevant to the Disability Discrimination Act 1995, the Protection from Harassment Act 1997 and (perhaps to a lesser extent) the Sex Discrimination Act 1975.

28. There is an argument that it would be better to take a coherent approach to the problem through a more wide-ranging equality Bill when Parliamentary time allows. However, the introduction of the proposed general duty means that public authorities, in particular enforcement bodies such as the police and the immigration service, may face claims under the Race Relations Act. There is no satisfactory way of dealing with claims that raise issues of national security in the absence of a special tribunal. There is an argument that such a tribunal, although it would apply to any claim under the Act which raised national security issues, is more likely to be needed now because of the imposition of the general duty. It is doubtful that a promise of further legislation when Parliamentary time allows would carry credibility and it would be very uncomfortable to have to declare that the Race Relations Act was out of step with the ECHR when legislating to take forward a key Stephen Lawrence report recommendation. **HS Committee is therefore recommended to agree to remedying this incompatibility with the ECHR by including provisions in the proposed Bill to establish an appeals tribunal based on current best practice.** This could probably be achieved in one clause and one Schedule.

EC Burden of Proof Directive

29. Under the Race Relations Act and the Sex Discrimination Act, the burden of proof in establishing discrimination lies with the complainant. The EC Burden of Proof Directive (BPD) reverses the burden of proof in sex and marital status discrimination cases in the field of employment and training, providing that, when facts are placed before a court or other competent authority from which it may be presumed that there has been direct or indirect discrimination, it should be for the respondent to prove that there has been no breach of the principle of equal treatment.

30. Indirect discrimination in both the Race Relations Act and the Sex Discrimination Act is defined as treatment which may be described as equal in a formal sense as between different racial groups (or between men and women) but which is discriminatory in its effect on one particular racial group (or on either men or women). The BPD provides a revised definition of indirect discrimination for gender, as existing "where an apparently neutral provision, criterion or practice disadvantages a substantially higher proportion of the members of one sex, unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex".

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31. The UK must implement the BPD by July 2001. This will require amending the Sex Discrimination Act. It will be possible to do this by subordinate legislation under the European Communities Act 1972.

32. The BPD does not impact directly on the Race Relations Act because it applies only to discrimination on grounds of *sex or marital status*. But it is highly desirable – though not strictly necessary – that the provisions in the Race Relations Act and the Sex Discrimination Act relating to the burden of proof and the definition of indirect discrimination remain identical. Otherwise, employment tribunals and employers would have to contend with two different burdens of proof and two different definitions of indirect discrimination, which will be especially confusing where discrimination is alleged on the grounds of both sex and race.

33. Aligning the two sets of provisions has been recommended by the CRE (in its Third Review of the Race Relations Act) and by the Better Regulation Task Force (in its recent review of anti-discrimination legislation), the latter emphasising the need for a regulatory impact assessment to be prepared.

34. It will not be possible to amend the Race Relations Act by an order under the European Communities Act, because the BPD applies only in relation to sex and marital status. Primary legislation will be needed. To ensure implementation by July 2001, it would be prudent to take advantage of the proposed Bill. Tackling the issue will take 2 clauses. **HS Committee are therefore, recommended to agree that provisions be included in the proposed Bill to extend the change introduced by the EC Burden of Proof Directive to the Race Relations Act.** Co-ordination with the introduction of provisions on gender would be necessary.

COSTS

35. Treasury have advised that initially, any costs would have to be met within existing provision agreed under the Comprehensive Spending Review. For later years Departments would, if necessary, highlight these costs as a separate issue in their negotiations during the next spending review.

Public authorities generally

36. The cost arising from the Government's commitment to extend the Act to all public services will largely depend upon the policy decisions taken regarding which public authorities will be subject to the proposed general provision; and whether direct and indirect discrimination is covered or direct discrimination alone. As explained above, the inclusion of indirect discrimination would have unforeseen consequences. This would make the Bill almost impossible to cost out.

37. The costing of provisions on direct discrimination will be difficult but not impossible. A lot will also depend on which public authorities are included in the list of bodies (if Ministers agree to that approach) and the functions that will be newly covered. How careful those bodies are or have been in developing policies and approaches that are fair and equitable to ethnic minorities is an additional factor. If the Government's policy on mainstreaming is being adhered to then the risks of having to pay damages will be reduced

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for the functions of Whitehall departments and others that will be newly caught by the Act. It is not proposed to estimate the costs to public authorities of defending claims or paying compensation, for example. These are expected to lie where they fall.

Courts

38. Additional costs for the county courts will depend on the volume of extra cases arising as a result of the proposed Bill. Information from the CRE's annual reports shows that about 500 applications for assistance are made to the CRE each year in non-employment cases and that about 30 of these proceed as far as a court hearing. Information from the annual reports of the Police Complaints Authority shows that about 370 complaints of racially discriminatory behaviour are made against the police each year, and that very few of these (two a year on average) proceed as far as a disciplinary charge.

39. The number of cases against public authorities arising from the general provision is likely to be higher than these fairly low figures would suggest. Once there is a forum for damages for discriminatory conduct by the police, for example, people may use it who would not otherwise take up a case with the PCA. However, only a guesstimate will be possible of the increase. **Based on this, and a view of the number of cases that arise elsewhere (e.g. via solicitors - for which there are no central figures), officials will seek to estimate the additional costs (there is no provision) that could arise for the courts and the legal aid bill with LCD.**

40. On the ECHR proposal, the Northern Ireland Office estimated in 1998 that running their tribunal would cost about £13,500 per hearing. As far as can be established, there have been no national security certificates issued under the Race Relations Act. **A significant change in this position is not anticipated so the costs are expected to be minimal.**

Commission for Racial Equality

41. An extension of the provisions of the Race Relations Act implies an increase in the potential workload of the Commission for Racial Equality which is funded by a grant from the Home Office (£16 million in 1999/2000). Officials will need to discuss the implications of the proposed legislation with the CRE to establish exactly what these might be.

Regulatory Impact Assessment

42. On the Burden of Proof Proposal, 562 cases were brought before employment tribunals in England and Wales in 1995/96 under the Race Relations Act out of a total registered of 1737. **Assuming this is typical, and no company has more than one case taken against it in a give year, the proportion of businesses affected each year (there are estimated to be about 1.2 million employers in E&W) would be a fraction of 0.1%. A Regulatory Impact Assessment is being prepared by officials, as recommended by the Better Regulation Task Force.**

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**Home Office
Race Equality Bill Team
June 1999**

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SCHEDULES

Section 1(2).

SCHEDULE 1

PUBLIC AUTHORITIES

Government departments

1.—(1) A government department. 5

(2) Sub-paragraph (1) shall not be taken to include the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

National Assembly for Wales

2. The National Assembly for Wales.

1998 c. 38.

3. An Assembly subsidiary as defined by section 99(4) of the Government of Wales Act 1998. 10

Armed forces

4. The armed forces of the Crown, except—

(a) the special forces, and

(b) any unit or part of a unit which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in the exercise of its functions. 15

The National Health Service

1977 c. 49.

5. A Health Authority established under section 8 of the National Health Service Act 1977. 20

6. A special health authority established under section 11 of the National Health Service Act 1977.

7. A primary care trust established under section 16A of the National Health Service Act 1977.

1990 c. 19.

8. A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990. 25

9. The Dental Practice Board constituted under regulations made under section 37 of the National Health Service Act 1977.

10. The Public Health Laboratory Service Board constituted under Schedule 3 to the National Health Service Act 1977. 30

11. Any person providing general medical services, general dental services, general ophthalmic services or pharmaceutical services under Part II of the National Health Service Act 1977.

Local government

1972 c. 70.

12. A local authority within the meaning of the Local Government Act 1972, namely— 35

(a) in England, a county council, a London borough council, a district council or a parish council,

(b) in Wales, a county council, a county borough council or a community council. 40

13. A parish meeting constituted under section 13 of the Local Government Act 1972. SCH. 1
1972 c. 70.
14. Any charter trustees constituted under section 246 of the Local Government Act 1972.
- 5 15. The Greater London Authority.
16. The Common Council of the City of London in its capacity as a local authority, police authority or port health authority.
17. The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in his capacity as a local authority.
- 10 18. The Council of the Isles of Scilly.
19. A fire authority constituted by a combination scheme under section 5 or 6 of the Fire Services Act 1947. 1947 c. 41.
20. A waste disposal authority established by virtue of an order under section 10(1) of the Local Government Act 1985. 1985 c. 51.
- 15 21. A port health authority constituted by an order under section 2 of the Public Health (Control of Disease) Act 1984. 1984 c. 22.
22. A licensing planning committee constituted under section 119 of the Licensing Act 1964. 1964 c. 26.
23. An internal drainage board which is continued in being by virtue of section 1 of the Land Drainage Act 1991. 1991 c. 59.
- 20 24. A probation committee constituted under section 3 of the Probation Service Act 1993. 1993 c. 47.
25. A joint authority established under Part IV of the Local Government Act 1985 (fire services, civil defence and transport).
- 25 26. The London Fire and Emergency Planning Authority.
27. A joint fire authority established by virtue of an order under section 42(2) of the Local Government Act 1985 (reorganisation of functions).
28. A body corporate established pursuant to an order under section 67 of the Local Government Act 1985 (transfer of functions to successors of residuary bodies, etc.).
- 30 29. A body corporate established pursuant to an order under section 22 of the Local Government Act 1992 (residuary bodies). 1992 c. 19.
30. The Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988. 1988 c. 4.
- 35 31. A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1972.
32. A joint board which is continued in being by virtue of section 263(1) of the Local Government Act 1972.
33. A joint authority established under section 21 of the Local Government Act 40 1992.
34. A Passenger Transport Executive for a passenger transport area within the meaning of Part II of the Transport Act 1968. 1968 c. 73.
35. Transport for London.

- SCH. 1
36. A joint board the constituent members of which consist of any of the public authorities described in paragraphs 12, 15, 16, 18 to 20, 25 to 35, 49 and 50.
- 1995 c. 25. 37. A National Park authority established by an order under section 63 of the Environment Act 1995.
- 1990 c. 8. 38. A joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990. 5
- 1997 c. 25. 39. A magistrates' court committee established under section 27 of the Justices of the Peace Act 1997.

Educational bodies

- 1998 c. 31. 40. A community, foundation or voluntary school or a community or foundation special school within the meaning of the School Standards and Framework Act 1998. 10
41. A maintained nursery school.
42. A pupil referral unit.
- 1992 c. 13. 43. An institution conducted by a further education corporation established under section 15 or 16 of the Further and Higher Education Act 1992. 15
44. A designated institution for the purposes of Part I of the Further and Higher Education Act 1992 as defined by section 28(4) of that Act.
45. A university receiving financial support under section 65 of the Further and Higher Education Act 1992. 20
- 1988 c. 40. 46. An institution conducted by a higher education corporation established under section 121 or 122 of the Education Reform Act 1988.
47. A designated institution for the purposes of Part II of the Further and Higher Education Act 1992 as defined by section 72(3) of that Act.
- 48.—(1) Any college, school, hall or other institution of a university which falls within paragraph 45. 25
- (2) In sub-paragraph (1) "college" includes any institution in the nature of a college.

Police

- 1996 c. 16. 49. A police authority established under section 3 of the Police Act 1996. 30
50. The Metropolitan Police Authority established under section 5B of the Police Act 1996.
51. A chief officer of police of a police force in England or Wales.
- 1998 c. 32. 52. The Police Authority for Northern Ireland which is continued in being by virtue of section 1 of the Police (Northern Ireland) Act 1998. 35
53. The Chief Constable of the Royal Ulster Constabulary.
54. The British Transport Police.
- 1987 c. 4. 55. The Ministry of Defence Police established by section 1 of the Ministry of Defence Police Act 1987.
- 1968 c. xxxii. 56. The Port of London Authority in respect of the exercise by any constable appointed by the Authority under section 154 of the Port of London Act 1964 of the functions of a constable. 40

57. Any person who—

(a) by virtue of any enactment has the function of nominating individuals who may be appointed as special constables by justices of the peace, and

(b) is not a public authority by virtue of any other provision of this Act,

5 in respect of the exercise by any person appointed on his nomination of the functions of a special constable.

SCH. 1

SCHEDULE 2

Section 5(4).

THE COMMISSIONER AND THE TRIBUNAL

PART I

10 PROVISION CONSEQUENTIAL ON S. 5(1) AND (2)

General

15 1.—(1) Any reference in any enactment, instrument or document to the Data Protection Commissioner or the Data Protection Registrar shall be construed, in relation to any time after the commencement of section 5(1), as a reference to the Information Commissioner.

(2) Any reference in any enactment, instrument or document to the Data Protection Tribunal shall be construed, in relation to any time after the commencement of section 5(2), as a reference to the Information Tribunal.

20 2.—(1) Any reference in this Act or in any instrument under this Act to the Commissioner shall be construed, in relation to any time before the commencement of section 5(1), as a reference to the Data Protection Commissioner.

(2) Any reference in this Act or in any instrument under this Act to the Tribunal shall be construed, in relation to any time before the commencement of section 5(2), as a reference to the Data Protection Tribunal.

25 *Public Records Act 1958 (c. 51)*

3.—(1) In Part II of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), the entry relating to the Data Protection Commissioner is omitted and there is inserted at the appropriate place—

“Information Commissioner.”

30 (2) In paragraph 4(1) of that Schedule, for paragraph (nn) there is substituted—

“(nn) records of the Information Tribunal;”.

Parliamentary Commissioner Act 1967 (c. 13)

35 4. In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), the entry relating to the Data Protection Commissioner is omitted and there is inserted at the appropriate place—

“Information Commissioner”.

5. In Schedule 4 to that Act (tribunals exercising administrative functions), for the entry relating to the Data Protection Tribunal there is substituted—

40 “Information Tribunal constituted under section 6 of the Data Protection Act 1998.”

Superannuation Act 1972 (c. 11)

6. In Schedule 1 to the Superannuation Act 1972 (employment with superannuation scheme), for “Data Protection Commissioner” there is substituted “Information Commissioner”.



Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Secretary of State for Health

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OR
CC: JH
PU

on / (F)

The Rt Hon Dr Jack Cunningham MP
Minister for the Cabinet Office
Cabinet Office
70 Whitehall
London SW1A 2AS

16 June 1999

**BETTER REGULATION TASK FORCE REVIEW OF ANTI-DISCRIMINATION
LEGISLATION : GOVERNMENT FORMAL RESPONSE**

Thank you for your letter of 12 May inviting initial responses to the recommendations in this report.

This is a sensible and well thought out report that will add value to the work already being done in this area.

We welcome the broad thrust of the recommendations and, in particular, developments that will bring the work of the Commissions closer together in terms of joint working, common guidance etc. We also strongly support the recommendation that effective equality policies, including monitoring, should become an integral aspect of Investors in People accreditation.

In the Government response, you may wish to refer to the NHS performance assessment framework, published on 9 April, and the national service framework for older people. The NHS performance assessment framework sets out a new broader based approach to assessing NHS performance whilst the national service framework for older people is aimed at driving up the quality of, and equity of access to services. Details at Annex A.



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The question of leverage and building equality into purchasing is, of course, on the equality agenda in the context of other developments eg. changes being mooted to the race equality legislation; best value-innovation and development work, considering circumstances in which services are being bought that require skills/tailored service provision, such as knowledge of particular communities, or the contractor's workforce is trained to a certain quality standard of including "cultural competence" or specific communication competence (bilingual workers, signing etc.). Development work in these aspects is underway in local government and is being further explored in relation to "best value regimes".

However these recommendations are taken forward, it is important to keep in view that developments in social services and local authorities more generally are likely to be significant for the NHS. Because of the need to deliver in partnership, standards must be shared.

I am copying this to the Prime Minister, John Prescott, members of HS Committee and Sir Richard Wilson.

A handwritten signature in black ink, appearing to be 'FD' with a stylized flourish.

FRANK DOBSON



Annex A

1. THE NHS PERFORMANCE ASSESSMENT FRAMEWORK

The NHS Performance Assessment Framework, published on 9 April 1999, sets out a new broader-based approach to assessing NHS performance. It sets out six areas over which the performance of the NHS will be assessed: Health Improvement, Fair access, Effective delivery of appropriate health care, Efficiency, Patient/carer experience and Health outcomes of NHS care.

The Fair access area is designed to recognise that the NHS's contribution must begin by offering fair access to health services in relation to people's need, irrespective of geography, socio-economic group, ethnicity, age or sex.

2. NATIONAL SERVICE FRAMEWORK FOR OLDER PEOPLE

To drive up quality of, and equity of access to, services, we have also launched the **national service framework for older people**. This will set national standards and define service models, put in place strategies to support implementation and establish performance measures against which progress within an agreed timescale will be measured.

The framework will focus on those parts of the NHS that are particularly important to older people to check that they are not at a disadvantage. It will look at how we organise and deliver services, focussing on standards of care in hospital wards, including palliative care; primary and community care; transitions to and from hospital; and assessment and care management. It will also look at some conditions that mainly affect older people such as mental illness (including dementia), injuries caused by accidents, and stroke.

The framework is being developed with the assistance of an External Reference Group and a number of task groups. These bring together health and social care professionals and managers; service users and carers, partner agencies, and other advocates. Their work is well underway. Emerging findings are due to be published in the Autumn with the final framework expected in April 2000.

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