

Strength in Diversity Consultation paper

Discrimination Law Association

Introduction

The Discrimination Law Association ('DLA') is a membership organisation established to promote good community relations by the advancement of education in the field of anti-discrimination law and practice. It achieves this by, among other things, the promotion and dissemination of advice and information; the development and co-ordination of contacts with discrimination law practitioners and similar people and organisations in the UK and internationally. The DLA is concerned with achieving an understanding of the needs of victims of discrimination amongst lawyers, law makers and others and of the necessity for a complainant-centred approach to anti-discrimination law and practice. With this in mind the DLA seeks to secure improvements in discrimination law and practice in the United Kingdom, Europe and at an international level.

The DLA is a national association with a wide and diverse membership. The membership is growing and currently consists of over 400 members. Membership is open to any lawyer, legal or advice worker or other person substantially engaged or interested in discrimination law and any organisation, firm, company or other body engaged or interested in discrimination law. The membership comprises, in the main, persons concerned with discrimination law from a complainant perspective.

The response of the DLA to 'Strength in Diversity' has focused on those aspects of the consultation document on which we feel best able to comment. Before responding to some of the questions posed in this document we would make the following general comments.

We agree that there should be a government strategy on community cohesion and race equality. Any such strategy should, however, include more than passing reference to the underlying economic and social causes of inequality and community disharmony.

In our view the first priority should be to tackle poverty and the persistent economic inequality that disproportionately affects certain ethnic minorities. Closely linked to economic inequality is inequality in housing, health and education across racial lines that exacerbates tensions between different groups. Without recognizing this as fundamental, we foresee little prospect of success in building community cohesion.

The consultation paper makes only scant reference to the role of the media, some influential parts of which have consistently undermined any progress towards community cohesion. For nearly a decade the media has used and exaggerated governments' concerns regarding asylum seekers to create an atmosphere of suspicion and hatred that has affected ethnic minorities in all parts of Britain including those with full British citizenship. Since 9/11 the media has added to Muslims to its portfolio of vilification, again drawing on government pronouncements and the application of certain anti-terrorism measures.

Policies regarding dissemination of racist ideas play an important role in the prevention of racism. Currently, the Code of Practice on discrimination for the media, enforced by the Press Complaints Commission, only requires the avoidance of prejudicial, pejorative or unnecessary reference to a person's colour, race or religion so it does not counter racist assumptions or stereotypes. The Press Complaints Commission can only consider a complaint if it is made by an individual who is specifically named in a press report, the complaint cannot be considered if it comes from another person or is on behalf of a group. The Advisory Committee of the Framework Convention for the Protection of National Minorities has found that: -

...complaints to the [UK] Press Complaints Commission have not proved effective mechanisms for reducing inflammatory attacks in the media against certain groups and considers that the United Kingdom and relevant authorities or bodies should reflect further on how these mechanisms could be made more effective...

We would recommend that the CRE, and once its is created the CEHR, have powers to make complaints to the PCC on press reporting of issues that concern race equality, human rights and community cohesion.

2. Promoting inclusive notions of citizenship, identity and belonging

1. How can we ensure that people feel a sense of pride in being British – without feeling they have to leave other traditions behind? How can we ensure that pride in being British is combined with respect for other people's identities? What role can shared values play in this?

We welcome the government's commitment towards building an inclusive sense of citizenship and its recognition that there is space in the concept of 'British' for people to express their religious and cultural beliefs.

A central element to generating a sense of belonging is recognition and respect for key identity markers, such as race, ethnicity, religion, sexual orientation, disability and gender. It is important to generating that sense of belonging that the state and public institutions do not themselves discriminate on these grounds. Furthermore, the state should, through its legal framework protect individuals from violence and discrimination on these grounds. The current legislative framework fails to provide adequate legal protection from discrimination. It remains legal to discriminate on the grounds of religion or belief and sexual orientation in relation to the provision of goods, services and facilities, in education, housing, criminal justice and delivery of local authority services. Discrimination by public authorities in relation to their functions is prohibited in relation to race but not other grounds. There is inconsistency not only between different grounds but also in the case of the RRA and SDA within the grounds of race and sex. The law does not provide consistent and equal protection from discrimination. This in turn undermines efforts to create a sense of belonging.

A single equality act, harmonising laws and creating obligations on the State to promote equality and good relations in respect of each of the protected grounds would remedy this.

2. In what ways can we promote British citizenship for all, particularly among young people?

3. Eradicating racism and extremism

3. How can we ensure that all communities see racism, racial and religious harassment and hate crime as unacceptable and are able to act to drive them out?

The government must demonstrate a real commitment to tackling racism, racial and religious harassment and hate crimes. Firstly it must vet its own policies and pronouncements to ensure they do not imply or lead to discriminatory treatment. Secondly, there must be effective laws in place backed up by effective support for individuals who seek redress.

For the DLA, which is concerned with discrimination law from the perspective of the complainant, access to skilled representation is vitally important.

The DLA welcomes the proposal for a new criminal offence to protect against incitement to religious hatred parallel to the current provisions in Part III of the Public Order Act 1986 in relation to race. While the DLA welcomes this move - indeed it was probably the first organisation in the UK to call publicly for such law after, after 11 September 2001 – it does not underestimate the difficulty of making the current law work. One difficulty is to provide persuasive evidence of the effect of speech in a particular context. Both the CPS and the CRE have been advised that the CRE could provide expert evidence in relation to this. However unless there were legislative change it would still be open to the judge to refuse to permit such evidence to be called. The DLA therefore suggest that the CRE, and once it is set up the CEHR, is specifically empowered to provide expert evidence of the likely effect of race or religious hate speech in a specific context in any case in which proceedings for incitement has been authorised by the Attorney General.

We would also reiterate that the lack of comprehensive protection from religious discrimination creates a loophole that groups like the BNP can point to in suggesting that discrimination on the grounds of religion is legitimate.

It is important that the 'hate' element of a hate crime is acknowledged and treated seriously by the police and CPS. Findings from the British Crime Survey indicate that the impact of racist crimes is particularly severe. A much larger proportion of victims of racist incidents said that they had been very much affected by the incident (42 per cent) than victims of other sorts of incidents (19 per cent).

It is also important that victims of hate crimes and harassment receive support from victim support services. Research shows that minority ethnic communities do not access certain mainstream victim services. Referrals to victim support come from the police, yet racial violence remains underreported. This means that the majority of victims of racist crime are unlikely to be referred due to the significant level of underreporting of this type of crime.

Access to victim support is an important issue as victims have certain key rights, which include the right to receive information and explanation about the progress of their cases, the right to receive compensation and the right to receive respect, recognition and support. One way of combating the discrimination and disadvantage that ethnic minority victims experience, is to ensure that criminal justice agencies abide by these victims' rights.

4. How can we most effectively respond to the threat from political and other forms of extremism, including understanding and tackling its causes?

It is not clear from the consultation paper what is meant by political extremism. Does the extremism relate to behaviour in support of political beliefs or particular beliefs? Would it include anarchist or SWP? If the reference is to racist political parties and racist organisation then the paper should make this clear.

5. How can we build on the progress that there has been made and ensure that the duty on public bodies to promote good relations makes a real difference in the way that public bodies deliver race equality and community cohesion?

Delivery of community cohesion and racial equality must be linked into existing target and management performance structures for departments, such as public service agreement. Such targets should, where possible be set for specific ethnic minority groups and not only for ethnic minorities as a whole.

4. Tackling inequality and opening opportunities for all

6. How can we most effectively target policies to tackle the specific disadvantage experienced by different sections of the population, with a strategy that delivers equality for all?

7. What more should be done to embed race equality in the delivery of public services?

Institutional and systemic discrimination is often the result of existing policies and practices disadvantaging a person because they are different from the norm around which the model for the service provision is based. Individuals involved in a transaction may not be aware of the discrimination. Monitoring will be central to identifying how and where disadvantage occurs this must be followed by effective measures to remove barriers to equality.

The 2001 census provided a 16-point classification system for the collection of ethnic monitoring. Where possible, monitoring by public bodies should be conducted on this basis. Consideration should also be given to the adequacy of the current ethnic categories. In particular, the census did not include a category for Gypsies and Travellers, the group that faces the most severe levels of discrimination and disadvantage. As a consequence local authorities and agencies that are using the census data to develop their race equality targets are failing to take the needs of Gypsies and travellers into account. Other groups that presently fall through gaps in the census categories are the Turkish, Kurdish or Arab ethnic groups.

To tackle religious discrimination there should be monitoring by faith affiliation where this is possible. Religion can be an important factor in ensuring appropriate service delivery. For example, delivery of culturally sensitive services it may be as important to know if a person is Hindu, Muslim or Sikh as it is to know that they are Indian.

Of course, monitoring will only reveal the existence of disadvantage. To embed race equality in the delivery of services, the need to meet race equality must be part of the business plan for a public service. Knowledge and understanding of diversity should also be embedded into the definition of 'merit' for employment in public services. The government should also look at ways in which understanding of diversity and race equality can become embedded into professional education.

Public service management targets should include a goal of ensuring that there is no significant difference in outcome when data for recruitment, retention and promotion of staff, or staff and customer satisfaction surveys are disaggregated by ethnicity or religion.

8. *What further actions can we take that will ensure public sector workforces are representative of the communities they serve?*

The Cabinet Office report, *Ethnic Minorities and the Labour Market*, showed that labour market achievement differs across and within different ethnic minority groups, with Indian and Chinese groups outperforming Whites in some categories. At present the Home Office race employment targets are set for ethnic minorities as a whole. It does not take into consideration the proportionate number of particular ethnic groups in the local community. Such targets may be achieved without reaching the groups most disadvantaged in the labour market such as individuals from the Black Caribbean, Pakistani and Bangladeshi communities. The Home Secretary's race employment target should be utilised to detail the progression of individual ethnic groups and not simply combine the outcome of all ethnic minorities together. These targets should be disaggregated by individual ethnic groups and focused on those who are under-represented.

9. How should we work in the private sector to promote race equality?

Research from the United States shows that one of the most effective levers for government in generating change in the private sector is through public procurement. Public procurement must be used more effectively to promote race equality and community cohesion.

10. How can we ensure that we have an open debate around how to properly manage migration and prevent abuse of asylum which does not fuel prejudice against Black and minority ethnic communities?

The government must be robust in defending the right of asylum and countering asylum scare stories. Article 19, the Global Campaign for Free Expression, has undertaken a research project into the presentation of asylum seekers and refugees in the UK. As part of this project between October and December 2002 they monitored six national newspapers and broadcast news bulletins. Their conclusions indicate that the press encourages racist opinions towards asylum seekers by including statistics without sources; using discriminatory names, labels, and emotive pictures.

For example, an article that is headlined to indicate that it is about asylum seekers then refers to the same people as 'illegal immigrants' and 'economic migrants'. They found that all the pictures used were of men, often with parts of their face covered (because they did not wish to be photographed sometime for fear of repercussions on their family at home), this presentation made them appear like criminals. There were no pictures of women and children although there were many women and children asylum seekers. A number of other NGOs have commissioned independent research and published reports that also examine the portrayal of asylum-seekers in the media. . They commented on the frequent use of emotive words like 'flood', 'wave' and 'influx'.

The Government strategy should highlight factors that help understand that issues around asylum, but which are consistently underplayed in the media. These include: the 'push' factors for migration; the difficult dilemmas for, and pressures on, those who arrive in Britain and the non-menacing, non-impoverished visual representation of refugees and asylum seekers as ordinary people in extra ordinary circumstances.

11. What more should be done to support integration of new arrivals – and to involve existing citizens in this as a two way process? How can we ensure that, in the true spirit of civil renewal, public service reforms consistently build cohesion and foster understanding between people from different cultures?