

# ECRI

European Commission against Racism and Intolerance  
Commission européenne contre le racisme et l'intolérance

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## European Commission against Racism and Intolerance

### Third report on the United Kingdom

Adopted on 17 December 2004

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.*

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.*

*The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.*

*The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.*

*ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.*

***The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 17 December 2004 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.***

### **Executive summary**

Since the publication of ECRI's second report on the United Kingdom, progress has been made in a number of areas. The legal framework against racism and racial discrimination has been strengthened. An important element of this framework, the statutory duty on public authorities to promote equality has been in force and implemented for over three years. Emphasis has increasingly been put on the achievement of concrete outcomes for ethnic minorities and specific equality targets for these groups of persons have been set across the public sector. Monitoring of the situation of different ethnic groups across a wide range of areas has facilitated the identification of priority areas for action and the elaboration of targeted policies. A strategy has been launched to promote community cohesion and race equality throughout Great Britain. Citizenship education has been introduced in secondary schools in order to better reflect the needs of a multicultural school population. Work is underway to establish a support mechanism to raise the awareness of the general public of their rights under the Human Rights Act and to advise and assist individuals.

However, a number of recommendations made in ECRI's second report have not been implemented or have only been partially implemented. In spite of initiatives taken, members of ethnic and religious minority groups continue to experience racism and discrimination. Asylum seekers and refugees are particularly vulnerable to these phenomena, partly as a result of changes in asylum policies and of the tone of the debate around the adoption of such changes. Members of the Muslim communities also experience prejudice and discrimination, especially in connection with the implementation of legislation and policies against terrorism. Continuing high levels of hostility, discrimination and disadvantage of Roma/Gypsies and Travellers are also a cause for concern to ECRI. The media has continued to play an important role in determining the current climate of hostility towards asylum seekers, refugees, Muslims, Roma/Gypsies and Travellers. Although it is in part the result of better reporting and recording techniques, the number of racist incidents is high. The disproportionate impact of criminal justice functions on ethnic minorities has continued to increase.

In this report, ECRI recommends that the authorities of the United Kingdom take further action in a number of areas. These areas include the need to ratify Protocol No. 12 to the European Convention on Human Rights, which lays down a general prohibition of discrimination, and the need to adopt a consolidated equality act that would eliminate current discrepancies in the levels of protection of individuals against discrimination. ECRI recommends that the authorities take the lead in promoting a debate on asylum issues that is balanced and that reflects the human rights dimension of these issues. It also recommends that the authorities of the United Kingdom review their legislation against terrorism in order to eliminate discrimination in its provisions and in its implementation and that they assess the impact of legislation and policies against terrorism on race relations. ECRI also recommends a series of measures to address the situation of disadvantage and discrimination faced by the Roma/Gypsy and Traveller communities.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE UNITED KINGDOM

### International legal Instruments

1. In its second report, ECRI recommended that the United Kingdom ratify the European Social Charter (Revised), the European Charter for Regional or Minority Languages and the Convention on the Participation of Foreigners in Public Life at Local Level. It also recommended that the United Kingdom sign and ratify the European Convention on Nationality and the European Convention on the Legal Status of Migrant Workers. ECRI further recommended that the United Kingdom make the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), whereby individuals and groups of individuals can file petitions before the Committee for the Elimination of Racial Discrimination and ratify the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which provides for the right of individual petition.
2. ECRI is pleased to note that the United Kingdom ratified the European Charter for Regional or Minority Languages in March 2001. The authorities of the United Kingdom report that the question of the ratification of the European Social Charter (Revised) is being kept under review. They also report that they intend to ratify the Convention on the Participation of Foreigners in Public Life at Local Level. However, the provisions contained in Chapter C of this instrument, which concern the attribution of eligibility and voting rights to foreign residents, will not be applied. Work is reported to be underway to complete the process of adapting the domestic legal system to enable ratification of the European Convention on Nationality. ECRI notes that the authorities of the United Kingdom do not intend to sign the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. ECRI also notes that the United Kingdom has not made the declaration under Article 14 of the ICERD nor has it ratified the Optional Protocol to the ICCPR.
3. ECRI notes that the United Kingdom has not signed Protocol No. 12 to the European Convention on Human Rights (ECHR), which provides for a general prohibition of discrimination. The authorities have stated that they do not intend to ratify the Protocol before it has entered into force and its scope has been clarified through the case law of the European Court of Human Rights. ECRI also notes that the United Kingdom has not signed the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and that it has no plans to do so for the moment.

### **Recommendations:**

4. ECRI recommends that the authorities of the United Kingdom sign and ratify Protocol No. 12 to the ECHR. It also recommends that they ratify as soon as possible the European Convention on Nationality and the European Social Charter (Revised). ECRI recommends that the authorities of the United Kingdom ratify the Convention on the Participation of Foreigners in Public Life at Local Level and that they apply the provisions contained in Chapters A, B and C of this instrument. ECRI furthermore recommends that the authorities of the United Kingdom sign and ratify the Additional Protocol to the Convention on Cybercrime, the European

Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. ECRI finally recommends that the authorities of the United Kingdom accept Article 14 of the ICERD and ratify the Optional Protocol to the ICCPR.

### **Constitutional provisions and other basic provisions**

5. In its second report, ECRI noted that the Human Rights Act, which gave the rights and freedoms set out in the ECHR further effect in the United Kingdom's domestic legal system, did not provide a general superseding guarantee against discrimination. It therefore recommended that the authorities consider ways in which this could be achieved. ECRI notes that there is strong support among the non-governmental sector for ratification by the United Kingdom of Protocol No. 12 to the ECHR and for its incorporation into the domestic legal system, as a way of ensuring that the right to be free from discrimination be placed at a higher level in the United Kingdom's domestic legal order.
6. The Human Rights Act has been implemented in the United Kingdom since October 2000. Although it is reported that members of the public in the United Kingdom are increasingly aware of their rights under the Act, ECRI notes that at present there is no support mechanism to assist individuals by raising their awareness of these rights and provide advice or representation. ECRI is pleased to note that the government has announced that it plans to establish a Commission for Equality and Human Rights<sup>1</sup>. ECRI understands, however, that the Commission, as envisaged at present, will not be empowered to assist individuals in pursuing complaints of human rights violations.

### **Recommendations:**

7. ECRI recommends that the authorities of the United Kingdom consider ways of placing the right to be free from discrimination at a higher level in the domestic legal order.
8. ECRI encourages the authorities of the United Kingdom in their efforts to establish a support mechanism aimed at raising the general public's awareness of their rights under the Human Rights Act and at providing advice and assistance to individuals. It recommends that such assistance include assistance in pursuing individual complaints of human rights violations.

### **- Citizenship legislation**

9. Since ECRI's second report, the United Kingdom has introduced new legislation in the field of naturalisation. The Nationality, Immigration and Asylum Act 2002 (hereafter: NIAA) requires all those applying for citizenship of the United Kingdom to demonstrate sufficient knowledge of English -- a requirement implemented since the end of June 2004 -- and knowledge of life in the United Kingdom -- a requirement which has not yet been implemented. In addition, citizenship ceremonies were introduced in January 2004. The authorities of the United Kingdom report that the proportion of unsuccessful applications for naturalisation is between 5 and 10 % of the total number of applications submitted every year (approximately 120,000). They have stated that no

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<sup>1</sup> See below, Specialised bodies and other institutions.



significant changes in the total number of applications or in the refusal rate have been registered since the entry into force of the NIAA.

**Recommendations:**

10. ECRI recommends that the authorities of the United Kingdom keep the implementation of the citizenship requirements under close review in order to address any possible patterns of excessively restrictive application or of direct or indirect discrimination on grounds of race, colour, language, religion, nationality and national or ethnic origin.

**Criminal law provisions**

**- Racially aggravated offences**

11. In its second report, ECRI recommended that the authorities of the United Kingdom continue to work to improve reporting and recording of racist incidents<sup>2</sup>. ECRI notes that a number of initiatives have been taken in this field, including the publication of a Code of Practice on the reporting and recording of racist incidents, which sets out ways in which comprehensive reporting and recording systems can be put in place at local level.
12. In its second report, ECRI also recommended that the authorities monitor the implementation of the provisions introduced by the Crime and Disorder Act 1998 throughout the various stages of the criminal procedure<sup>3</sup>. ECRI notes that the Crown Prosecution Service (hereafter: CPS) compiles reports monitoring racist incidents which contain information on decisions by the prosecuting authorities in all cases identified by the police or CPS as racist incidents. ECRI notes that, in the year 2002/2003, the number of defendants dealt with by the CPS for racially motivated crime rose by 12.4%. This latest increase follows a 20% increase from the year 2000/2001. At the same time, ECRI notes that during the year 2002/2003, the number of racist incidents recorded by the police fell by 11% to 48,525 and that racially aggravated offences recorded by the police remained more or less stable (31,034). Non-governmental organisations have registered progress in the reporting, recording and prosecution of racially and religiously aggravated offences -- since ECRI's second report, legal provisions have been introduced against religiously aggravated offences in the Anti-Terrorism, Crime and Security Act 2001 (hereafter: ATCSA). Some concern has been expressed, however, that convictions do not always reflect the number and gravity of the offences committed. In this respect, ECRI notes that since October 2003, the Attorney General has been given powers to refer certain cases involving racially or religiously aggravated offences to the Court of Appeal where, in his opinion, the sentences handed down have been unduly lenient.

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<sup>2</sup> Following a recommendation of the Stephen Lawrence Inquiry Report in this sense, the police, the Crown Prosecution Service and all other criminal agencies have adopted a definition of a racist incident, which states that "a racist incident is any incident which is perceived to be racist by the victim or any other person".

<sup>3</sup> The Crime and Disorder Act 1998, which has been in force since September 1998, created new offences of racially aggravated violence and harassment and gave statutory force to the case-law which required judges to consider evidence of racist motivation for any offence as an aggravating factor in sentencing.

**Recommendations:**

13. ECRI encourages the authorities of the United Kingdom in their efforts to improve the methods by which racist incidents are reported and recorded and to monitor the implementation of the provisions against racially and religiously aggravated offences. ECRI recommends that the authorities of the United Kingdom continue to raise the awareness of the courts of the need to ensure that all racially or religiously aggravated offences are duly punished and that the sentences handed down adequately reflect the gravity of the offences.

- **Incitement to racial hatred**

14. In its second report, ECRI recommended that the authorities of the United Kingdom keep the effectiveness of the provisions against incitement to racial hatred, contained in Part III of the Public Order Act 1986 (hereafter: POA), under review. Since ECRI's second report, the maximum penalty for incitement to racial hatred under the POA was increased by the ATCSA from two to seven years' imprisonment. In addition, the authorities of the United Kingdom have taken measures aimed at enforcing these provisions more effectively. These measures include the establishment within the Metropolitan police of a central advice point for all police forces in England and Wales in relation to possible offences of incitement to racial hatred, and the examination of all cases referred to the CPS by a specialised team within it. Although some sentences, including one sentence to seven years' imprisonment, have been handed down, many organisations have expressed concern to ECRI about the fact that the provisions against incitement to racial hatred are rarely applied<sup>4</sup>. Concern has also been expressed about the very restrictive manner in which these provisions are interpreted.

**Recommendations:**

15. ECRI recommends that the authorities of the United Kingdom keep the effectiveness of existing legislation in force against racist expression under review. In this respect, it draws the attention of the authorities to its General Policy Recommendation No. 7<sup>5</sup>, which contains a list of acts which, according to ECRI, should be penalised under national legislation. ECRI stresses in particular its recommendation that these acts include "the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin". Furthermore, ECRI reiterates the recommendation it formulated in its second report, that consideration be given to replacing the requirement to have the consent of the Attorney General for prosecution of offences under Part III of the POA with the requirement to have the consent of the Director of Public Prosecutions.

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<sup>4</sup> Since 1996, there have been 61 prosecutions and 42 convictions in England and Wales, while a first sentence was recently handed down in Scotland and is presently being appealed.

<sup>5</sup> CRI (2003) 8: ECRI General Policy Recommendation N°7: National legislation to combat racism and racial discrimination.

16. Part III of the POA provides protection against incitement to racial hatred only. Thus, at present, the POA provides protection only to those religious groups which, according to the case-law, constitute “racial groups”<sup>6</sup>. Against this background, in its second report, ECRI recommended that the provisions against incitement to racial hatred be extended to cover incitement to hatred against religious groups. ECRI is pleased to note that the government has recently announced plans to introduce legislation to this effect.

**Recommendations:**

17. ECRI recommends that the authorities of the United Kingdom swiftly enact legislation prohibiting incitement to hatred against religious groups.
18. In its second report, ECRI recommended that the United Kingdom reform its blasphemy law, which currently offers protection only to the Church of England, either by abolishing it or by extending it to cover other religions in order to avoid discrimination. The authorities of the United Kingdom have indicated that they will keep the position on the blasphemy law under review, particularly as the benefits of the new provisions against incitement to religious hatred are realised.

**Recommendations:**

19. ECRI reiterates its recommendation to the authorities of the United Kingdom that they reform the blasphemy law, in order to ensure that it does not discriminate between religions.

**- Scotland and Northern Ireland**

20. In Scotland, there are provisions against racially aggravated behaviour. Since the entry into force of the Criminal Justice (Scotland) Act 2003 in June 2003, religiously aggravated offences are also prohibited. Provisions also exist to prohibit incitement to racial hatred. However, as in England and Wales, these provisions do not cover incitement to hatred against religious groups.
21. In its second report, ECRI expressed concern at the absence of provisions against racially aggravated behaviour in Northern Ireland. ECRI is pleased to note that the Criminal Justice (No. 2) (Northern Ireland) Order 2004 introduced provisions whereby racial or religious motivation is to be considered an aggravating circumstance in sentencing.

**Recommendations:**

22. ECRI recommends that legislation prohibiting incitement to hatred against religious groups be enacted in Scotland. It also recommends that extensive training be provided to all those working in the criminal justice system in Northern Ireland on the newly-introduced provisions against racially or religiously aggravated behaviour.

<sup>6</sup> See below, Vulnerable groups – Religious groups.

## Civil and administrative law provisions

23. In its second report, ECRI expressed its hope that the Race Relations (Amendment) Bill would be swiftly adopted. Shortly after the preparation of ECRI's second report, the Race Relations (Amendment) Act 2000 (hereafter: RRAA), brought within the scope of the Race Relations Act (1976) important functions of public authorities, including the police. The RRAA also introduced a positive duty on specified public authorities to have due regard to the need to eliminate discrimination, promote equal opportunities and encourage good race relations in carrying out their functions.
24. Since ECRI's second report, the United Kingdom's race relations and employment equality legislation were further amended in 2003 by Regulations<sup>7</sup> through which the United Kingdom transposed the European Council Directives 2000/43/EC and 2000/78/EC<sup>8</sup>. Non-governmental organisations have consistently expressed concern that as a result of the decision of the government to implement the Directives by way of introducing the minimum possible changes, the antidiscrimination legislation is, as it currently stands, very incoherent and confusing. One illustration of this appears to be the different levels of protection currently available against discrimination on grounds of racial and ethnic origin on the one hand, compared to discrimination on grounds of nationality or colour on the other<sup>9</sup>. Additional inconsistencies are reported to come from the fact that the changes introduced by the Regulations only apply to those areas that are covered by the EU Directives, although in some cases pre-existing antidiscrimination provisions cover wider areas<sup>10</sup>. More generally, ECRI has registered a strong support from the non-governmental sector for a comprehensive review of the antidiscrimination provisions in force and for the adoption of a single equality act covering discrimination on all grounds, which would eliminate current discrepancies in the levels of protection of individuals against discrimination and constitute a more easily manageable tool for the general public and for legal practitioners and law enforcement agencies alike.

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<sup>7</sup> In Great Britain: Race Relations Act 1976 (Amendment) Regulations 2003 (entered into force on 19 July 2003), the Employment Equality (Sexual Orientation) Regulations 2003 (entered into force on 1st December 2003) and the Employment Equality (Religion or Belief) Regulations 2003 (entered into force on 2nd December 2003). Separate regulations were adopted in Northern Ireland.

<sup>8</sup> Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

<sup>9</sup> Since the EU Directive 2000/43/EC covers discrimination on grounds of racial or ethnic origin only, most of the changes introduced by the Regulations only apply to cases of discrimination on these grounds and not to cases of discrimination on grounds of colour or nationality, which are, however, covered by the RRA. As a result, for instance, the new definitions of indirect discrimination, genuine occupational requirement and the new provisions on the burden of proof only apply to discrimination on grounds of racial or ethnic origin, whereas the original provisions of the RRA continue to apply to discrimination on grounds of colour and nationality.

<sup>10</sup> For instance, the new changes introduced by the Regulations do not deal with all claims of discrimination by public authorities, but only those claims which also fall within the scope of the Directive 2000/43/EC.

### **Recommendations:**

25. ECRI recommends that the authorities of the United Kingdom swiftly undertake a review of the antidiscrimination provisions in force in order to prepare a consolidated act which provides equal protection to individuals against discrimination on grounds such as race, colour, language, religion, nationality and national or ethnic origin. It strongly recommends that, in this process, the authorities take into account ECRI's General Policy Recommendation No. 7, which contains detailed guidance on the key elements of effective national legislation against discrimination on these grounds.
26. In its second report, ECRI recommended that the obligations incumbent on public authorities placed under the duty to eliminate racial discrimination, promote equal opportunities and encourage good race relations be spelled out as clearly as possible in the law. It also recommended that the authorities of the United Kingdom ensure that adequate mechanisms to monitor compliance with and to enforce this duty are put in place.
27. In addition to placing most public authorities under a general duty to eliminate racial discrimination, promote equal opportunities and encourage good race relations, the RRAA places many public authorities under so-called specific duties, by which public authorities can, in fact, meet the general duty. The specific duties mainly include the preparation of race equality schemes which set out plans for delivering race equality in external and internal work<sup>11</sup>. The race equality scheme is a public document and public bodies are answerable to the public for delivering the programme set out in the scheme. In addition, all public authorities bound by the general duty must monitor their staff and applicants for jobs, promotion and training by ethnic group and publish the results every year<sup>12</sup>. Some concern has been expressed that the duties incumbent on public authorities have tended to focus excessively on arrangements and processes aimed at advancing race equality rather than on actual race equality outcomes.
28. As concerns monitoring and enforcement mechanisms, the Commission for Racial Equality<sup>13</sup> (hereafter: CRE) has been given a central role in monitoring the way public authorities fulfil their general and specific duties. ECRI notes, for instance, that the CRE has produced a statutory code of practice providing details on each legal requirement under the duties as well as accompanying non-statutory guides. As recommended by ECRI in its second report, the CRE has also been empowered to serve compliance notices to public authorities who have failed to fulfil their duties and to apply to courts for orders of compliance with such notices in certain circumstances. ECRI also notes that, as part of the effort to link public authorities' duties and racial equality outcomes more closely, the CRE is also monitoring the implementation of the race equality duty, and that this has been reinforced by the Treasury's introduction of race equality

<sup>11</sup> Under the race equality scheme, public authorities must: assess and consult on the likely impact proposed policies will have on race equality; monitor policies for any adverse impact on race equality; publish the results of any consultation, monitoring or assessment; guarantee that the public have access to the information and services they provide; and train their staff in the general duty and in the specific duties.

<sup>12</sup> Authorities with at least 150 full-time staff must also monitor by ethnic background grievances, disciplinary action, performance appraisal, training and dismissals.

<sup>13</sup> See below, Specialised bodies and other institutions.

outcomes into Public Service Agreements<sup>14</sup>. ECRI notes that some research indicates that the implementation of the duty is rather patchy: while there are good examples of public authorities' compliance with the duties across all sectors, a number of authorities are lagging behind. In general, ECRI has noted that there is wide support within civil society for the public authorities' race equality duties, as a tool with good potential for bringing about lasting change, preventing racial discrimination and tackling inequalities. It has been pointed out, however, that, with over 43,000 public authorities being bound by the race equality duties, considerably more resources should be available to ensure monitoring and enforcement.

**Recommendations:**

29. ECRI encourages the authorities of the United Kingdom in their efforts to promote race equality and fight against racial discrimination through the public authorities' duty. In this respect, it recommends that the authorities ensure that adequate resources are available for the effective monitoring and enforcement of these duties. ECRI also recommends that the authorities of the United Kingdom take all necessary measures in order to ensuring a closer link between race equality duties and actual race equality outcomes. It furthermore recommends that the authorities of the United Kingdom consider extending the duty to other grounds, and notably religion, and to parts of the private sector.
30. As already noted in ECRI's second report, Section 75 of the Northern Ireland Act 1998 places public authorities under a statutory obligation to promote equality of opportunities and good relations between certain individuals and groups, including persons of different racial origin and persons of different religious beliefs. The Equality Commission for Northern Ireland (hereafter: ECNI)<sup>15</sup> monitors the implementation of the duties imposed by Section 75 and offers advice in this respect. ECRI notes that the ECNI's most recent Progress Report indicates that a number of authorities have made some progress. However, some non-governmental organisations report that much remains to be done to ensure that all public authorities adequately fulfil their obligations, especially in relation to race equality. The authorities of the United Kingdom have informed ECRI that a review of the operation of the Section 75 equality duty, including effective monitoring and enforcement mechanisms, is currently underway.

**Recommendations:**

31. ECRI recommends that the authorities of the United Kingdom keep the effectiveness of the Section 75 equality duty closely under review. In this respect, it recommends in particular that the authorities ensure that the duty to promote equality of opportunities and good relations between racial groups and persons of different religious beliefs does not receive less attention than other facets of the duty.

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<sup>14</sup> A Public Service Agreement sets out the aims, objectives and performance targets for each government department and is linked directly to its budget allocation. Through a Public Service Agreement, a direct link is therefore established between a department's funding and its performance in delivering service improvements and outcomes for customers.

<sup>15</sup> See below, Specialised bodies and other institutions.

## Administration of justice

32. In its second report, ECRI recommended that the authorities of the United Kingdom pay particular attention to interpreting the data collected through the ethnic monitoring of the criminal justice system and that they further extend ethnic monitoring to all stages of the judicial process.
33. Since ECRI's second report, ethnic monitoring of the criminal justice system has continued and a considerable amount of information is available on ethnic minorities' experiences of this system in areas such as "stop and searches", arrests, cautions, convictions, sentencing, imprisonment, and deaths in custody. The authorities of the United Kingdom recognise that more work is needed to analyse and understand this statistical information. To this end, they have established a Criminal Justice System – Race Unit which is housed in the Home Office and works across all criminal justice system departments and agencies with the aim of identifying barriers to equal treatment and ways of tackling them effectively. The authorities have also informed ECRI that a fundamental review of the statistics on race and the criminal justice system is being carried out to determine what statistics should be collected and how.

### **Recommendations:**

34. ECRI encourages the authorities of the United Kingdom in their efforts to monitor the ethnic minorities' experience of the criminal justice system. It recommends that any review of the current monitoring systems be instrumental to the collection of data that is accurate, informative and accessible. In this connection, ECRI recommends that the authorities consider extending the monitoring of the criminal justice system by collecting data broken down by religion.
35. In its second report, ECRI recommended that the UK authorities pay particular attention to researching and addressing the over-representation of members of ethnic minorities in the prison population, deaths in custody, and "stop and searches".
36. ECRI addresses the issues of deaths in custody and "stop and searches" in other parts of this report<sup>16</sup>. It notes that the Criminal Justice Unit is currently researching the area of sentencing to establish whether there is evidence of different sentencing between people in different ethnic minority and majority populations. As concerns prisons, ECRI notes that, in June 2002, ethnic minorities still accounted for about 22% of the male and 29% of the female prison population of England and Wales and that the disproportion between ethnic minority and other prisoners is reportedly growing. ECRI also notes that, following the results of a formal investigation by the CRE on racism in the prison service, the latter has committed itself to implementing an action plan to ensure race equality for both staff and prisoners. More generally, ECRI notes that, under its Public Service Agreement, the Home Office has introduced and strengthened targets relating to race equality and the criminal justice system. These targets include specific targets to be attained in the area of reducing the disproportionate impact of criminal justice functions on ethnic minorities.

<sup>16</sup> Conduct of law enforcement officials.

**Recommendations:**

37. ECRI encourages the authorities of the United Kingdom in their efforts to research and improve the manner in which the criminal justice system deals with ethnic minorities. In particular, it recommends that the authorities monitor the situation as concerns racism and racial discrimination in prisons.

- **Legal aid**

38. In its second report, ECRI recommended that legal aid be made available for representation and assistance in racial discrimination cases before Employment Tribunals. ECRI notes, however, that there is still no legal aid available for these cases, although since 2000 the alleged victim can apply for exceptional funding in certain circumstances. Given the complexity of discrimination cases, non-governmental organisations consider that lack of legal aid in such cases seriously affects the chances of victims of discrimination of having their situation redressed in Employment Tribunals. The need for publicly funded centres which provide legal assistance in racial discrimination cases has been highlighted.

**Recommendations:**

39. ECRI recommends that the authorities of the United Kingdom consider how to best ensure that legal aid is available in discrimination cases before Employment Tribunals.

**Specialised bodies and other institutions**

40. In its second report, ECRI noted that there were plans to establish a Human Rights Commission and stressed the need to ensure that such a new commission would not dilute the effectiveness of existing institutions. As mentioned above<sup>17</sup>, the government of the United Kingdom has announced plans to establish a Commission for Equality and Human Rights in Great Britain (CEHR)<sup>18</sup>. This body will bring together the three existing equality bodies (the CRE, the Equal Opportunities Commission and the Disability Rights Commission) and deal with discrimination on grounds of race, gender, disability, religion and belief, sexual orientation and age. The CEHR will also have responsibilities in human rights areas other than those connected with non-discrimination and equality. ECRI notes that the government has widely consulted civil society organisations on this proposal. There appears to be widespread support for a body which would deal more easily with cross-cutting issues of discrimination. However, there is also considerable concern that the CEHR, as presently envisaged, may result in less attention, powers and resources being given to race equality issues than is the case at present. Furthermore, many have highlighted the risk that, in the absence of a single equality act, CEHR would end up presiding over a hierarchy of equality strands. It has, therefore, been suggested that a single equality body should not be established – or at least, the existing equality bodies should not be merged into one before a single equality act which provides equal protection to individuals

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<sup>17</sup> Constitutional provisions and other basic provisions.

<sup>18</sup> The Scottish Parliament has already committed to setting up a separate Human Rights Commission for Scotland.



against discrimination on the different grounds to be covered by CEHR is in force<sup>19</sup>.

**Recommendations:**

41. ECRI recommends that the authorities of the United Kingdom ensure that the establishment of a single equality body does not result in less attention, powers and resources being given to race equality issues than is the case at present. It also reiterates, in this context, its call for the swift adoption of an act which provides equal protection to individuals against discrimination on the grounds covered by ECRI's mandate.
42. As concerns Northern Ireland, in its second report ECRI noted that the Northern Ireland Act (1998) had merged the commissions previously entrusted with promoting equality of different disadvantaged groups into the Equality Commission of Northern Ireland (ECNI), and expressed the hope that this would not result in less attention being paid to racism and racial discrimination. The authorities of the United Kingdom have stated that there has been no reduction in the emphasis placed on combating racism and racial discrimination as a result of this measure. However, some non-governmental organisations consider that racial equality issues are not given as much attention as other equality strands covered by ECNI.

**Recommendations:**

43. ECRI recommends that the authorities of the United Kingdom support work to ensure that the equality strands covered by ECRI's mandate are given adequate attention within ECNI.

**Education and awareness raising**

44. In its second report, ECRI recommended that the National Curriculum be reviewed for all grades in order to ensure that cultural diversity is valued and to help prevent racism. ECRI also recommended that teachers be properly trained to teach any new subject introduced in this field. ECRI welcomes the introduction in 2002 of Citizenship as a compulsory National Curriculum subject in secondary schools in England, Wales and Northern Ireland<sup>20</sup>. This requires that pupils be taught about the diversity of national, regional, religious, and ethnic identities in the United Kingdom and the need for mutual respect and understanding. There are reports, however, according to which in practice the implementation of this requirement is very patchy. In particular, many schools reportedly do not teach Citizenship as a separate subject and have chosen instead to deliver it through existing subjects.

**Recommendations:**

45. ECRI recommends that the authorities of the United Kingdom ensure that the National Curriculum for all grades, including primary school, reflect the needs of a culturally diverse school population and constitute an effective tool against racism. It recommends that the authorities monitor the practical implementation

<sup>19</sup> See above Civil and administrative law provisions.

<sup>20</sup> In Scotland, Citizenship has been introduced as a cross-curricular activity for Scotland's non-statutory curriculum.

of the requirement that Citizenship be taught in secondary schools and take the necessary steps to ensure that this is done effectively, including by training teachers and ensuring that adequate time is spent on the subject. ECRI encourages the authorities of the United Kingdom to ensure that the public duty to promote racial equality, which is binding on all education authorities, is duly used to monitor progress in these matters.

## Reception and status of non-citizens

### - *Immigration*

46. Section 19D of the RRAA, as amended by Section 6 of the NIAA, provides for an exception to the principle of non-discrimination, by making it lawful for immigration officers to “discriminate against another person on grounds of nationality or ethnic or national origins in carrying out immigration functions” when this is authorised by a Minister. An Independent Race Monitor, also established under the RRAA, monitors the effect of these Ministerial authorisations<sup>21</sup>. Despite the safeguard of the Independent Race Monitor and the reportedly restrictive approach taken by the authorities in issuing authorisations, ECRI considers that no civil servant, irrespective of the function exercised, should be allowed to discriminate against (i.e. treat differently without an objective and reasonable justification) persons on grounds of nationality or ethnic or national origin. ECRI notes that one such authorisation issued in April 2001 expressly authorised United Kingdom’s immigration officers to subject certain groups of persons “to a more rigorous examination than other persons in the same circumstances”<sup>22</sup>. In this connection, ECRI notes with serious concern reports that Roma passengers boarding flights bound to London were openly discriminated against by United Kingdom’s border official at Prague Airport despite an agreement with the Czech government that there would be no racial discrimination in the application of pre-entry control. This scheme has since been declared by the House of Lords to be inherently discriminatory and unlawful under the Race Relations Act 1976.
47. Since ECRI’s second report where it noted that the powers of immigration officers to enter premises, search and arrest people had been extended, these powers have been further broadened by the NIAA and the Asylum and Immigration (Treatment of Claimants, etc.) Act (hereafter: AIA). New immigration-related offences have also been created. ECRI notes that immigration officers may question people to determine their immigration status as a result of a referral by a police officer, who has stopped an individual under police powers and in the course of the investigation becomes concerned about the individual’s immigration status, or because the individual’s behaviour led the immigration officer to suspect that an immigration offence may have been committed. However, ECRI notes reports of repeated operations conducted jointly by immigration officers and the British Transport Police during which persons have allegedly been questioned on the basis of their appearance or language in public transport premises.

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<sup>21</sup> There were ten authorisations in operation during the year 2003/2004, the most wide-ranging of which, according to the Independent Race Monitor’s report which covers this period, allowed discrimination in the examination of arriving passengers from specified nationalities.

<sup>22</sup> These persons were: “1. A person who is of Chinese ethnic origin presenting a Malaysian or Japanese passport or any other travel document issued by Malaysia or Japan. 2. A person of one of the following ethnic or national origins: a) Kurd; b) Roma; c) Albanian; d) Tamil; e) Pontic Greek; f) Somali; g) Afghan”. This authorisation was revoked in 2002.

48. In its second report, ECRI expressed concern that the provisions which penalise employers who take on employees whose immigration status prevents them from working in the United Kingdom (section 8 of the Asylum and Immigration Act 1996) could increase the likelihood of racial discrimination in recruitment. The authorities of the United Kingdom report that they have taken measures to reduce the risk of employers putting in place discriminatory practices. These measures include the preparation of a Code of Practice and of compliance support material for employers, as well as the establishment of helpline facilities for them.
49. ECRI notes that the AIA introduces provisions in order to combat so-called sham-marriages. These provisions impose restrictions, *inter alia*, on marriages involving non-European Economic Area nationals. It has been argued that this may be discriminatory or incompatible with the right to marry contained in Article 12 of the ECHR. The authorities of the United Kingdom have indicated that, following the parliamentary scrutiny of these provisions, they are satisfied that such provisions are compatible with the Human Rights Act.

#### **Recommendations:**

50. ECRI urges the authorities of the United Kingdom to ensure that civil servants, including those working in the immigration and nationality fields, do not discriminate against persons on grounds such as race, colour, language, religion, nationality and national and ethnic origin. To this end, ECRI recommends, in particular, that the authorities of the United Kingdom repeal Section 19D of the RRAA.
51. ECRI recommends that the authorities of the United Kingdom keep the operation of section 8 of the Asylum and Immigration Act 1996 closely under review and take any necessary action, such as repealing it, should evidence that it leads to racial discrimination come to light.
52. ECRI recommends that the authorities of the United Kingdom ensure that the right of persons in the United Kingdom to marry is thoroughly respected without discrimination, including on the basis of the nationality of the spouses.

#### **- Asylum seekers and refugees**

53. See Section III of this report.

#### **Access to public services**

##### **- Access to education**

54. In its second report, ECRI recommended that the authorities of the United Kingdom: take measures to address the issue of the high number of pupils from certain ethnic minority groups that are expelled or suspended from school; monitor ethnic minority pupils' achievement and set achievement targets; and cater for the needs of non-English mother tongue children, particularly by ensuring adequate teaching of English as an additional language. The authorities report that action has been taken in all these fields. For instance, research on exclusions of ethnic minority pupils is being refined, targeted funding for improvement of ethnic minority attainment is available in England, targets on reducing inequalities in education have been set for the period 2005-

2010 and initiatives are being implemented to improve the availability of teachers of English as a second language. It has been pointed out, however, that the picture of ethnic minority achievement in education is complex and needs more refined research. Although the situation varies according to different ethnic groups, there appear to be factors within the education system which, at one stage or another, impact negatively on all ethnic minority students and their subsequent career patterns.

55. ECRI notes that the Teacher Training Agency aims to increase the recruitment of ethnic minority trainees to 9% of all new entrants by 2006 and to sustain recruitment at this level for a further three years. The proportion of ethnic minority teacher trainees has reportedly considerably increased since ECRI's second report and was 8,7% of the total number of trainees in 2003.
56. Following the violent unrest in towns and cities in the North of England in the summer of 2001<sup>23</sup>, the authorities of the United Kingdom commissioned enquires into these disturbances. These enquiries found, *inter alia*, that these disturbances had taken place in a context where ethnic minority, mainly British Asian, and majority communities were segregated, particularly in areas such as education, housing and employment<sup>24</sup>. ECRI notes that the report made recommendations for avoiding *de facto* ethnic and religious segregation in schools.

#### **Recommendations:**

57. ECRI recommends that the authorities of the United Kingdom closely monitor compliance of all school authorities with the duty to promote racial equality and to eliminate racial discrimination and that they use all opportunities offered by the duty to advance the position of ethnic minorities in education. ECRI particularly encourages the authorities to ensure comprehensive monitoring of the participation and achievements of pupils from minority groups in schools and to target specific funding for ethnic minorities. It recommends that the authorities ensure that this be done throughout the United Kingdom. ECRI recommends that the authorities pursue and intensify their efforts to improve specialised teaching of English as an additional language and that they work to reduce the disproportionate numbers of ethnic minority pupils excluded from schools and to raise the latter's education achievement.
58. ECRI recommends that the authorities continue and intensify the drive to recruit ethnic minority teachers and retain them in the teaching profession once they are recruited.
59. ECRI recommends that the authorities of the United Kingdom take measures to counter *de facto* ethnic and religious segregation in schools in the United Kingdom.

#### **- Access to health**

60. ECRI notes that research indicates that there is a higher incidence of certain health conditions in ethnic minority communities. In addition, people from ethnic minorities may encounter difficulties in accessing health services, for example

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<sup>23</sup> See below, Overall strategies to fight against racism and promote community cohesion.

<sup>24</sup> Community Cohesion: A Report of the Independent Review Team Chaired by Ted Cattle.

where there are language barriers or when services offered are not culturally sensitive. ECRI has been made aware of initiatives to tackle these problems. These include the setting of race equality targets for the Department of Health, and free and voluntary health screenings for asylum seekers. Research also seems to indicate that certain ethnic minority groups are over-represented as users of mental health services, experience poorer outcomes, and are more likely to be interned permanently in mental health institutions. In this connection, ECRI notes that the Independent Inquiry published in 2004 into the death of David Bennett, an African Caribbean man who died in a mental health institution, makes recommendations in the area of racism and cultural awareness and sensitivity in mental health services.

### **Recommendations:**

61. ECRI recommends that the authorities of the United Kingdom continue and intensify work to address inequalities experienced by different ethnic groups in the health sector, including as concerns access to health services. It recommends that they devote particular attention to tackling the disproportionate representation of certain ethnic minority groups among the users of mental health services and to addressing the issue of racism and the need for more cultural awareness and sensitivity in these institutions.

### **Employment**

62. ECRI notes that, following the publication of the Cabinet Office Strategic Unit Report on Ethnic Minorities and the Labour Market in March 2003, a cross-Government Strategy is being implemented and monitored by an inter-Ministerial Task Force. The authorities of the United Kingdom have explained to ECRI that the Strategy aims to address in an integrated way three main areas, which research indicate as being key factors in the persistent situation of disadvantage which ethnic minorities face in the labour market: lack of skills, qualifications and experience; geographical disadvantage, including the disadvantage linked to the fact that they often live in generally deprived areas; and racial discrimination and harassment. ECRI notes that, in accordance with a recommendation it made in this sense in its second report, part of the work carried out under the Strategy aims at ensuring, through monitoring and targeted action, that ethnic minorities benefit in practice from opportunities generally available for the unemployed. However, ECRI wishes to underline the important role that racial discrimination and harassment still play in keeping ethnic minorities away from the labour market. In order to tackle these issues, it has been suggested that the authorities make a more extensive and effective use of levers such as public procurement and that an extension of the duty to promote racial equality to parts of the private employment sector would also be beneficial<sup>25</sup>. ECRI also notes that, with the exception of Northern Ireland<sup>26</sup>, remedies currently available before Employment Tribunals for racial discrimination cases do not allow for measures to be imposed on the discriminator in order to alter his or her behaviour in order to avoid a recurrence of the discriminatory acts.

<sup>25</sup> See above, Civil and administrative law provisions.

<sup>26</sup> The Northern Ireland Fair Employment and Treatment Order 1998 allows the Northern Ireland Fair Employment Tribunal to make recommendations that the "respondent take within a specified period action appearing to the Tribunal to be practicable for the purpose of obviating or reducing the adverse effect on a person other than the complainant of any unlawful discrimination to which the complaint relates".

63. In its second report, ECRI recommended that the authorities of the United Kingdom extend race equality employment targets to other areas of the public sector and that particular attention be devoted to the representation of members of ethnic minorities in senior positions. The authorities of the United Kingdom have stated to ECRI their commitment to achieving fully representative workforces across the public sector. They report that employment targets are split into operational and non-operational sections to ensure that ethnic minorities are not concentrated in back office areas. The Cabinet Office has responsibility over government-wide targets for diversity of senior civil servants, including targets for ethnic minority senior civil servants.

#### **Recommendations:**

64. ECRI encourages the authorities of the United Kingdom in their efforts to improve the employment situation of ethnic minorities. It encourages the authorities to thoroughly implement the Ethnic Minority Employment Strategy and recommends, in this respect, that they pay particular attention to eliminating racial discrimination and racial harassment in the workplace. To this end, ECRI recommends that a more extensive and effective use be made by the authorities of levers such as public procurement, that consideration be given to extending the duty to promote racial equality to parts of the private employment sector and that the remedies currently available before Employment Tribunals for racial discrimination cases be extended. ECRI furthermore recommends that the authorities of the United Kingdom continue and intensify their work to achieve fully representative workforces across the public sector and at all levels. It recommends that they regularly monitor the progress made in this area.

#### **Vulnerable groups**

- ***Roma/Gypsies and Travellers***

65. See Section III of this report.

- ***Muslim communities***

66. ECRI is concerned at reports that the Muslim communities of the United Kingdom continue to experience societal prejudice, discrimination across a wide range of crucial areas, such as employment and the criminal justice system, as well as harassment and violence. It is particularly concerned that this situation has considerably worsened since the events of 11 September 2001. Muslims have, since then, suffered in particular from their association in public perception with terrorism. United Kingdom Ministers have denounced any attempts to link Islam with terrorism or Muslims in general with terrorist activities. Despite this, these public perceptions have often been fostered by certain sections of the press and by the discriminatory implementation of anti-terrorism legislation, including particularly the provisions on “stop and search”. ECRI will address certain aspects of the situation of the Muslim communities of the United Kingdom in different parts of this report<sup>27</sup>. It wishes to stress here, however, that many civil society organisations consider that Islamophobia and its manifestations in institutions and society in general are not yet adequately recognised, understood and therefore addressed in the United Kingdom.

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<sup>27</sup> See Administration of justice, Religious groups, Monitoring the situation, Media, Anti-terrorism legislation and its implementation.

**Recommendations:**

67. ECRI recommends that the authorities of the United Kingdom maintain a regular and even closer process of consultation with representatives of the Muslim communities of the United Kingdom on the causes of Islamophobia and on the ways in which this manifests itself in institutions and in society in general. They should elaborate an overall strategy against Islamophobia which cuts across different areas of life. ECRI draws the attention of the authorities of the United Kingdom to its General Policy Recommendation No. 5<sup>28</sup>, which proposes a range of measures they can take to combat intolerance and discrimination against Muslims.

**- Jewish communities**

68. ECRI is concerned at the considerable and steady increase of antisemitic incidents in the United Kingdom since ECRI's second report. While these incidents usually mirror tensions in the Middle East, representatives of the Jewish communities report that there now seems to be a higher level of background violence against these communities. Although manifestations of antisemitism continue to come from extreme right-wing and neo-Nazi groups, an increasing number of antisemitic manifestations, and notably antisemitic speech, is reportedly coming from Muslim fundamentalist groups. Although criminal prosecutions that have taken place have reportedly put a stop to the worst excesses of antisemitic speech, the difficulties mentioned above in the implementation of the legislation against incitement to racial hatred<sup>29</sup> have resulted in many cases of antisemitic speech having gone unpunished. As concerns antisemitic hate-mail, ECRI notes that under the Malicious Communication Act, the sending of hate mail, including electronic mail, is prohibited. However, it has been reported to ECRI that the requirement that a case be brought within six months of the commission of the offence often makes prosecutions under the Act practically impossible.

**Recommendations:**

69. ECRI recommends that the authorities of the United Kingdom continue and intensify their efforts to counter all manifestations of antisemitism. It reiterates in this context the recommendations formulated above on the implementation of existing criminal law provisions, and notably those against incitement to racial hatred. It also recommends that the authorities review the operation of the Malicious Communication Act to ensure that it constitutes an effective tool to counter hate-mail, including antisemitic hate-mail, and that they introduce any necessary changes to this end. More generally, ECRI draws the attention of the authorities of the United Kingdom to its General Policy Recommendation No. 9<sup>30</sup>, which proposes a range of measures they can take to combat antisemitism.

<sup>28</sup> CRI (2000) 21: ECRI General Policy Recommendation n° 5: Combating intolerance and discrimination against Muslims.

<sup>29</sup> See above, Criminal law provisions.

<sup>30</sup> CRI (2004) 37: ECRI General Policy Recommendation n° 9 on the fight against antisemitism

- **Religious groups**

70. ECRI has already addressed the question of legislation against religiously aggravated offences and incitement to hatred directed against religious groups in other parts of this report<sup>31</sup>. As concerns legislation against religious discrimination, in its second report ECRI noted that legal protection against discrimination was only granted to religious groups inasmuch as they were also deemed by the courts to constitute a racial group<sup>32</sup>. Following the adoption of Regulations to transpose EU Directive 2000/78/EC<sup>33</sup>, religious groups in the United Kingdom presently enjoy protection against discrimination (irrespective of whether or not they are also deemed to constitute a racial group) only in employment and training. However, in other areas such as education, health, social benefits or provision of goods and services, they continue to enjoy protection only to the extent that they are also considered as being racial groups. ECRI is pleased to note that the authorities of the United Kingdom have announced plans to introduce legislation to protect religious groups against discrimination in provision of goods, facilities, services and premises.
71. ECRI notes that in 2003 a Faith Communities Unit was established within the Home Office. This Unit has, *inter alia*, the task of supporting and promoting inter-faith dialogue.

**Recommendations:**

72. ECRI recommends that the authorities of the United Kingdom extend legal protection against religious discrimination to all areas in respect of which legal protection against racial discrimination is currently provided.
73. ECRI encourages the authorities of the United Kingdom to continue and intensify their efforts to support and promote inter-faith dialogue.

**Northern Ireland**

74. In its second report, ECRI recommended that action be taken against what appeared to be significantly negative attitudes towards ethnic minorities in Northern Ireland. ECRI notes with concern that, since then, there has been a clear rise in hate crimes in Northern Ireland, notably against members of ethnic minority groups. These groups include long established communities, but also migrant workers who arrived in Northern Ireland more recently to respond to a need for skilled staff in certain economic sectors. It has been pointed out that, in some cases, these attacks have seen the involvement of paramilitary groups and more generally, that manifestations of racism in Northern Ireland must be seen in the context of the historic sectarian prejudice and violence opposing Catholics and Protestants in this part of the United Kingdom. The role played by extreme-right wing formations in some of these attacks has also been stressed. ECRI notes that the authorities in Northern Ireland have started to tackle these problems and, more generally, the issues around racism and racial discrimination in Northern Ireland. For instance, the police service has started to

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<sup>31</sup> See Criminal law provisions

<sup>32</sup> The case law, as it stood at the time and still stands, indicates, for instance, that while Jews and Sikhs are considered as being a racial group, Muslims, Rastafarians, Christians or Buddhists are not.

<sup>33</sup> Civil and administrative law provisions.



monitor and record racist incidents<sup>34</sup>. A race Equality Unit has been set up within the Office of the First Minister and the Deputy First Minister (OFMDFM) and a Northern Ireland Race Forum, composed of Ministerial and civil society representatives, was set up in February 2003 with the task, *inter alia*, of elaborating and implementing a Race Equality Strategy which will be launched shortly. As mentioned above, legislation against racially aggravated behaviour has also been adopted<sup>35</sup>. However, in order to ensure a more thorough response to racism and racial discrimination in Northern Ireland, the need for more thorough statistical information both on the situation of different ethnic groups in various areas of life and on manifestations of racism and the implementation of legislation to counter them has been highlighted. The need for the Race Equality Strategy to cover the commitments undertaken at the World Conference against Racism<sup>36</sup> and to address the problems faced by migrant workers in Northern Ireland has also been highlighted.

75. Particular concern has been expressed at the continuing situation of social exclusion and discrimination faced by the Irish Traveller community, which ECRI recommended in its second report be addressed as a priority in Northern Ireland. ECRI deals with the situation of Roma/Gypsies and Travellers throughout the United Kingdom in Section III of this report. However, in this connection ECRI notes that there is strong support among civil society organisations for a thorough implementation of the recommendations of the Promoting Social Inclusion (PSI) Working Group on Travellers, which was established in October 1999 by the OFMDFM. The authorities have pointed out that a sub-group of the Northern Ireland Race Forum will oversee the implementation of the government response to the PSI recommendations.

#### **Recommendations:**

76. ECRI recommends that the authorities of the United Kingdom intensify their efforts to combat racism and racial discrimination in Northern Ireland. In particular, it recommends that the Northern Ireland Race Equality Strategy reflect the commitments undertaken at the World Conference against Racism and that it cover the situation of migrant workers. ECRI recommends that, in the implementation of the Strategy, the authorities focus on concrete race equality outcomes in addition to creating structures and processes to tackle inequalities. ECRI reiterates its call that urgent action be taken to address the situation of social exclusion and discrimination faced by the Irish Traveller community. It recommends in particular that the recommendations made by the PSI be swiftly and thoroughly implemented.

#### **Media**

77. ECRI is still concerned by the tone of debate in the national media, especially that surrounding asylum seekers, immigrants, refugees, Roma/Gypsies, Travellers and Muslims, particularly since the events of 11 September 2001. This has included material which was racist and inflammatory in its effect. ECRI notes that some progress has been made in this field since its second report. For instance, the Press Complaints Commission (PCC) issued guidelines in

<sup>34</sup> Reports of racist incidents have risen from 102 in 2000/2001 to 145 in the first quarter of 2004/2005 alone.

<sup>35</sup> See Criminal law provisions.

<sup>36</sup> See below, Overall strategies to fight against racism and promote community cohesion.

October 2003 on the correct terminology to be used when reporting on asylum and refugees. Some newspapers have also reportedly covered terrorism in a more professional way, and have been more aware of the risk of making generalisations and of the need to avoid stigmatisation of communities. However, civil society organisations which are active in combating racism and racial discrimination still place media reporting on asylum, immigration and terrorism at the centre of their concerns. In the asylum and immigration field, the media are, for instance, reported to have continued to use provocative, sensationalist and sometimes outright racist language, present facts and statistics in a biased way, and accompany articles with threatening images. As concerns terrorism, it has been pointed out, *inter alia*, that the media tend to give extensive coverage to arrests of suspects of terrorism, who are predominantly Muslims, but fail to report on their release, which has reportedly followed almost each of such arrests.

78. In its second report, ECRI noted that, although it contained provisions against discrimination, the Code of Practice enforced by the PCC was not meant to provide protection to groups, but only to individuals. The situation has not changed in this respect. ECRI has noted, however, that there is wide support from civil society organisations for a more active role of the media profession in tackling racist and racially inflammatory material that targets certain groups of persons. ECRI notes that, as part of its current work to promote community cohesion<sup>37</sup>, the authorities of the United Kingdom have started working with the media and other interest groups at regional and local level on how the press might help promote community cohesion.

#### **Recommendations:**

79. ECRI encourages the authorities of the United Kingdom to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards asylum seekers, refugees and immigrants or members of any minority group, including Roma/Gypsies, Travellers and Muslims, and the need to play a proactive role in countering such an atmosphere. ECRI recommends that the authorities of the United Kingdom engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved. It recommends that any successful initiatives developed at local level in this field, be reproduced on a broader scale at national level.

#### **Conduct of law enforcement officials**

80. In its second report, ECRI recommended that the authorities of the United Kingdom implement all the recommendations contained in the Stephen Lawrence Inquiry Report and that they review the implementation of these recommendations. Some of the initiatives undertaken to implement the recommendations made in the Stephen Lawrence Inquiry Report on the reporting and recording of racist incidents have already been referred to in other parts of this report<sup>38</sup>. More generally, the authorities of the United Kingdom report that, five years after the publication of the Inquiry Report, they have conducted research to evaluate progress made. They report that findings indicate that while some progress has been made, there is still some way to go

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<sup>37</sup> See below Overall strategies to fight against racism and promote community cohesion.

<sup>38</sup> See above, Criminal law provisions.

to increase the level of understanding required to ensure that all practices promote race equality. The authorities of the United Kingdom intend to continue to take this work forward based on the recommendations from the research.

81. ECRI welcomes the progress that has been made in this area. It is concerned, however, that there is still evidence of negative attitudes in the police service towards ethnic minority groups. ECRI notes that, following the broadcast of a television documentary in October 2003 which exposed racist behaviour within the police force, the CRE opened a formal investigation into racism in the police service. The investigation, whose findings are expected by early 2005, will focus on recruitment and training practices, monitoring of officers' conduct, management of officers' behaviour and on how these functions are overseen by the police authorities. ECRI notes that the investigation will also look into how the police service has complied with its statutory duty to promote racial equality.

**Recommendations:**

82. ECRI strongly encourages the authorities of the United Kingdom to take forward their work on the implementation of all the recommendations of the Stephen Lawrence Inquiry Report, that they ensure that this is done in all police forces in the country and that they keep progress under regular review. ECRI recommends that the authorities of the United Kingdom urgently follow up on the findings and on any recommendations that may be formulated at the end of the formal investigation conducted by the CRE.

83. In its second report, ECRI recommended that urgent research be carried out and action taken to address the disproportionate number of ethnic minorities who are subject to "stop and searches". ECRI notes that, since its second report, figures concerning "stop and searches" show that this disproportion has continued to increase<sup>39</sup>. ECRI notes that the authorities of the United Kingdom have taken a number of measures to address this situation. For instance, under its Public Service Agreement, the Home Office has set a specific target to reduce the disproportionate impact of "stop and searches" on ethnic minorities. A manual is being prepared on the use of "stop and search" powers. ECRI also notes that, following a recommendation of the Stephen Lawrence Inquiry Report that all "stops" in addition to "stops and searches" be recorded, the authorities of the United Kingdom have decided that this recommendation shall be implemented by all police forces by April 2005 at the latest<sup>40</sup>.

**Recommendations:**

84. ECRI encourages the authorities of the United Kingdom in their efforts to monitor the impact of the use of "stop and search" powers on ethnic minorities and to reduce their disproportionate use in this respect. It recommends that the recommendation made in the Stephen Lawrence Inquiry Report in this field be implemented without delay.

<sup>39</sup> In 2002/2003, for instance, ethnic minorities in England and Wales were 6 times more likely to be stopped and searched than the majority population. This compares with five times in 2001/2002. Figures also show a dramatic increase in stops and searches of Asians under powers introduced by anti-terrorism legislation (see below, Anti-terrorism legislation and its implementation).

<sup>40</sup> Implementation of this recommendation has already started in police forces in Scotland in April 2004 and in the Metropolitan Police in October 2004.

85. In its second report, ECRI recommended that an independent mechanism to investigate serious complaints of misbehaviour, including of racist or racially discriminatory behaviour, on the part of police officers be established. ECRI is pleased to note that under the Police Reform Act 2002, the authorities of the United Kingdom have established, with effect from 1 April 2004, an Independent Police Complaints Commission (IPCC). The IPCC has a dual purpose. Firstly, it acts as an overall guardian with the objective of ensuring that all complaints against the police are dealt with properly and fairly by the police itself; secondly, it may investigate directly some more serious cases – the police has been put under an obligation to refer these to the IPCC. ECRI notes that approximately 700 cases have been referred to the IPCC so far, 60 of which have contained elements of discrimination.

**Recommendations:**

86. ECRI encourages the authorities of the United Kingdom in their efforts to establish an independent body with the objective of ensuring proper and fair investigations into alleged instances of police misconduct. It recommends, in particular, that the authorities provide the IPCC with sufficient human and financial resources to enable it to carry out its own investigative functions effectively.

87. In its second report, ECRI recommended urgent research and action to address the issue of the disproportionate number of persons from ethnic minorities who die in custody. The authorities of the United Kingdom report that they are concerned at the apparent rise in the number of persons from ethnic minority groups who have died in custody and that they have commissioned independent research to try and establish the causes of this phenomenon. ECRI understands that the results of this research are expected to be published shortly.

**Recommendations:**

88. ECRI encourages the authorities of the United Kingdom in their efforts to carry out research on the disproportionately higher number of members of ethnic minorities who die in custody and recommends that they address this problem as a matter of urgency.

89. In its second report, ECRI recommended that all training in race relations issues include strategies for placing such principles firmly within operational policing. It also recommended that the effectiveness of such training be evaluated. The authorities of the United Kingdom report that, following several recent investigations into race and diversity training in the police force, a new training strategy is being prepared. This strategy will embed training and development within operational policing and provide arrangements for training to be evaluated at local and national level and for this to involve diverse communities.

90. In its second report, ECRI recommended the adoption of strategies to recruit and retain ethnic minorities in the police and to improve representation of ethnic minorities in senior positions in the police. The authorities of the United Kingdom have reported that targets were set for the police force for the recruitment, retention and career progression of ethnic minority officers and police staff to be achieved by 2009 and that progress is monitored annually. Although it has been increasing over the years, ECRI notes that ethnic minority

representation in the police force still does not reflect the ethnic composition of society with around 3% of the total number of police officers being of ethnic minority background in 2001/2002. ECRI notes with interest that the Association of Chief Police Officers announced in July 2004 that no member of the police force, whether a police officer or civilian, can be a member of an organisation whose aims or pronouncements contradict the police's general duty to promote race equality and made it clear that this included the British National Party<sup>41</sup>.

### **Recommendations:**

91. ECRI recommends that the authorities of the United Kingdom continue and intensify work to ensure high quality training for police officers in combating racism and in policing a diverse society.
92. ECRI recommends that the authorities of the United Kingdom continue and intensify work to address the under-representation of ethnic minorities in the police. It recommends that they monitor progress in recruitment, retention and career advancement.

### **Overall strategies to fight against racism and promote community cohesion**

93. ECRI is pleased to note that, following the World Conference against Racism (WCAR) held in Durban in 2001, the authorities of the United Kingdom have worked together with civil society organisations towards the development of a National Action Plan Against Racism (NAPAR), the establishment of which was one of the commitments undertaken by national governments at the WCAR. ECRI also notes that, following the disturbances of spring and summer 2001 in the North of England, which involved persons from different cultural, religious and ethnic backgrounds, the authorities of the United Kingdom have made considerable efforts to develop a strategy aimed at promoting community cohesion throughout the country<sup>42</sup>. To this end, the authorities have consulted a wide range of civil society and other actors and a Community Cohesion and Race Equality Strategy was launched in January 2005. ECRI notes that Community Cohesion aims to incorporate and go beyond racial equality and social inclusion. According to the Government's consultation pamphlet<sup>43</sup>, Community Cohesion is to be articulated around four main aims: promoting inclusive notions of citizenship, identity and belonging; eradicating racism and extremism; tackling inequality and opening opportunities for all; and building active communities, whose members value involvement. ECRI notes that civil society organisations have generally supported the establishment and implementation of a community cohesion and race equality strategy and have welcomed the link increasingly being made between race equality and community cohesion on the one hand and the need for changes in society as a whole on the other. However, they have also highlighted the need for ensuring that the race equality strand of the strategy be given the importance it deserves. To this end, it has been stressed that the Community Cohesion and Race Equality Strategy should thoroughly reflect the results of the work already carried out in view of the establishment of a NAPAR.

<sup>41</sup> See below, Exploitation of racism in politics.

<sup>42</sup> A Community Cohesion Unit has also been established within the Home Office. The Unit has, inter alia, been entrusted with the task of supporting and spreading good community cohesion practice at the local level.

<sup>43</sup> Strength in Diversity – Towards a Community Cohesion and Race Equality Strategy.

**Recommendations:**

94. ECRI encourages the authorities of the United Kingdom in their efforts to implement a strategy aimed at promoting community cohesion and race equality. It recommends that they ensure that the weight given to the race equality strand of this strategy reflect its importance and, to this end, that the strategy thoroughly reflect the results of the work already carried out in view of the establishment of a NAPAR.

**Monitoring the situation**

95. ECRI welcomes the extensive ethnic monitoring that the authorities of the United Kingdom carry out in different areas of policy. ECRI has registered wide support within civil society in the United Kingdom for such monitoring as a way of better assessing the situation of ethnic minority groups and targeting specific policy responses. In this connection, it has been suggested that there is a need for data broken down by ethnic origin to be collected in respect of more groups than those currently covered<sup>44</sup>. The need has also been highlighted for the collection of data broken down by religion, since data on the situation of religious groups in different areas of policy are at present inferred indirectly from data broken down by nationality.

**Recommendations:**

96. ECRI encourages the authorities of the United Kingdom in their efforts to collect data broken down by ethnic origin in different areas of policy. It recommends that the authorities ensure that the collection of such data cover as wide a range of groups as possible. It also recommends that the authorities collect data broken down by religion. ECRI recommends that, in so doing, the authorities ensure thorough consultation and involvement of all the communities concerned.

**Exploitation of racism in politics**

97. ECRI notes the presence in political debate in the United Kingdom of racist and xenophobic discourse, notably targeting asylum seekers and immigrants. Although the electoral success of parties who have resorted to openly racist and xenophobic propaganda is still relatively low at nation-wide level, ECRI notes with concern that one of these parties, the British National Party, has increased its overall representation at local level and has built considerable local support bases in certain areas.

**Recommendations:**

98. ECRI recommends that the authorities of the United Kingdom take measures to tackle the exploitation of racism in politics. In this respect, it draws the attention of the authorities to its General Policy Recommendation No. 7, which sets out measures that can be taken to this end. ECRI emphasises, in particular, that according to this General Policy Recommendation “the law should provide for the possibility of dissolution of organisations which promote racism”.

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<sup>44</sup> See below, The situation of Roma/Gypsies and Travellers.

## II. NEW DEVELOPMENTS

### Anti-terrorism legislation and its implementation

99. Since ECRI's second report, the United Kingdom has adopted two main pieces of legislation to counter terrorism: the Terrorism Act 2000 and the Anti-Terrorism, Crime and Security Act 2001 (ATCSA). The Terrorism Act creates, *inter alia*, new terrorism-related offences and gives the police new counter-terrorism powers. The ATCSA, which was adopted in the aftermath of the events of 11 September 2001, and is currently in force until March 2005, unless renewed for a further period of up to one year (subject to the overall expiry of part 4 in November 2006), introduced exceptional powers to counter the terrorist threat posed by Al Qaida and the network of terrorist groups associated with it.
100. Part 4 of the ATCSA allows for the indefinite detention of foreign nationals who are suspected of involvement in international terrorism and cannot be deported. Human rights observers have questioned the conformity of this legislation with different aspects of international human rights law. ECRI is concerned that, in order to adopt this provision, the United Kingdom had to avail itself of the possibility to derogate from Article 5(1)(f) of the ECHR, which protects against deprivation of liberty except for purposes of deportation or extradition<sup>45</sup>. ECRI is also concerned that part 4 of the ATCSA discriminates against persons on the basis of nationality, inasmuch as it applies only to foreign nationals. ECRI notes that, in a legal challenge brought before the Special Immigration Appeals Commission (SIAC), the latter found that these provisions were discriminatory<sup>46</sup>. However, the Court of Appeal reversed the SIAC's findings on discrimination. ECRI notes that, in December 2004, the House of Lords held that the provisions on detention contained in Part IV of the ATCSA are contrary to the European Convention on Human Rights, insofar as they are disproportionate and permit detention of suspected international terrorists in a way that discriminates on the ground of nationality or immigration status.

#### **Recommendations:**

101. ECRI recommends that the authorities of the United Kingdom review the provisions contained in Part 4 of the ATCSA. In this connection, ECRI draws the attention of the authorities to its General Policy Recommendation No.8<sup>47</sup> (GPR 8), which recommends to member States of the Council of Europe that they "review legislation and regulations adopted in connection with the fight against terrorism to ensure that these do not discriminate directly or indirectly against persons or groups of persons, notably on grounds of "race", colour, language,

<sup>45</sup> Article 15 of the ECHR provides for the possibility for a contracting party to derogate from its human rights obligations "in time of war or other public emergency threatening the life of the nation". The United Kingdom formally derogated from Article 5(1)(f) in December 2001.

<sup>46</sup> The SIAC noted that the application of indefinite detention provisions "would properly be confined to the alien section of the population only if, as the Attorney-General contends [,] the threat stems exclusively or almost exclusively from that alien section." However, the SIAC points out that "evidence before us demonstrates beyond argument that the threat is not so confined. There are many British nationals already identified – mostly in detention abroad – who fall within the definition of "suspected international terrorists" and it was clear from the submissions made to us that [...] there are others at liberty in the United Kingdom who could be similarly defined. In those circumstances we fail to see how the derogation can be regarded as other than discriminatory on the grounds of national origin".

<sup>47</sup> CRI (2004) 26: ECRI General Policy Recommendation N°8 on combating racism while fighting terrorism

religion, nationality or national or ethnic origin”, and that they “abrogate any such discriminatory legislation”.

102. ECRI furthermore draws the attention of the authorities of the United Kingdom to the recommendation contained in GPR 8 that member States should “ensure that [...] national legislation expressly includes the right not to be subject to racial discrimination among the rights from which no derogation may be made even in time of emergency”.
103. As concerns the implementation of anti-terrorist legislation, ECRI is concerned by widespread reports that ethnic and religious minority groups, and particularly Muslims, have been affected in a seriously disproportionate way by the application of the powers established through anti-terrorist legislation, including detention powers under Part 4 of the ATCSA and “stop and search”, arrest and detention powers under the Terrorism Act 2000<sup>48</sup>. In this respect, ECRI notes that under the Terrorism Act 2000, police officers are not required to act on the basis of reasonable suspicion to “stop and search” individuals.
104. ECRI is concerned that the anti-terrorism provisions highlighted above and the implementation of anti-terrorism legislation since ECRI’s second report have considerably contributed to a climate of fear and suspicion around ethnic and religious minority communities, and in particular around Muslim communities, or those identified as such. ECRI considers that this situation runs counter to efforts undertaken by the authorities of the United Kingdom to build an integrated society and cohesive communities. ECRI recognises the responsibility of the authorities of the United Kingdom to ensure the security of all communities in the country. ECRI considers, however, that the authorities are also under an obligation to assess the impact that their current legislation and policies against terrorism may have on race and community relations in the United Kingdom. In this connection, ECRI notes that no assessment has been carried out on the impact of the Terrorism Act and the ATSCA on race and community relations in the United Kingdom.

#### **Recommendations:**

105. ECRI recommends that the authorities of the United Kingdom ensure that anti-terrorism legislation is implemented in a manner that does not discriminate against persons or groups of persons, notably on grounds of actual or supposed “race”, colour, language, religion, nationality or national or ethnic origin.
106. ECRI recommends that the authorities of the United Kingdom assess the impact that their current legislation and policies against terrorism may have on race and community relations in the United Kingdom.
107. ECRI recommends that the authorities of the United Kingdom ensure that Muslim and other communities which are particularly affected by the implementation of anti-terrorism legislation are thoroughly consulted and involved in relevant fora concerning the implementation of anti-terrorism legislation.

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<sup>48</sup> Official figures show, for instance, that between the years 2001/2002 and 2002/2003 there was a 300% rise in the number of Asians who were stopped and searched under the Terrorism Act 2000, with a considerably higher rise in London.



### III. SPECIFIC ISSUES

#### **Effect of changes in asylum policies on the situation and the public perception of asylum seekers, refugees and minority groups**

108. In its second report, ECRI expressed concern at the negative climate of opinion concerning asylum seekers and refugees in the United Kingdom. It considered that such a negative climate was closely linked to frequent changes in asylum policies, which had been designed to increasingly deter these categories of persons from coming to the United Kingdom and which, in many cases, were openly presented as such in public debate. ECRI also found that hostility towards asylum seekers and refugees had been favoured by the assumption, promoted in public debate, that most asylum seekers are not genuine refugees, and by the vilification of those who are considered by the authorities to have invalid asylum claims.
109. ECRI notes with regret that the situation in this field has not improved. ECRI also notes the migratory pressures of recent years and the link, often made in public debate within the United Kingdom, between good race and community relations and public confidence in the system of immigration control. ECRI considers, however, that there is a real risk at present of the policies emerging from this situation having a negative effect on public opinion – an effect which could easily carry over into attitudes on race and community relations generally.
110. Since ECRI's second report, the United Kingdom has adopted new asylum legislation, which has introduced a number of restrictive measures and, perhaps more importantly, has been presented to the public as being instrumental to deterring asylum seekers from coming to this country. These trends are also reflected in the authorities' public commitment to attaining targets for reducing asylum applications -- for instance, the government is committed to reducing these by half in 2004 -- and for increasing the number of expulsions carried out. ECRI considers that the setting of targets in these areas provides a powerful illustration of how the debate on asylum in the United Kingdom has increasingly moved away from human rights considerations. ECRI notes that reports indicate that the anti-asylum rhetoric from some sections of the media and some politicians have inflamed the situation further by implying that the asylum system is being used by terrorists to gain access to the country and by depicting asylum seekers as coming in unmanageable numbers. Abuse of the asylum system is also a recurrent theme, although ECRI notes that estimates indicate that, on average, every year 40-50% of those who apply for asylum in the United Kingdom are found to have legitimate grounds for remaining in this country, either as refugees or as persons in need of humanitarian protection. These characterisations and themes have been challenged from time to time by the authorities, but not consistently and at all relevant levels, and in some cases these perspectives have been echoed and legitimised. As highlighted in different parts of this report, in recent years the authorities of the United Kingdom have made efforts to improve race relations among people living in the United Kingdom and to promote community cohesion. ECRI considers, however, that the adoption of increasingly restrictive measures in the field of asylum and the tone of public debate around the adoption of such measures run counter to these efforts and to the development of an integrated society which is genuinely respectful of differences.

111. In its second report, ECRI underlined that racial attacks and harassment against asylum seekers illustrated some of the dangers that an increasingly hostile climate of opinion towards this category of persons can bring about. While racist violence continues to constitute a problem generally, ECRI notes reports that the current climate of antagonism around asylum seekers has made the latter the group more at risk of racist violence in recent years.

**Recommendations:**

112. ECRI urges the authorities of the United Kingdom to take the lead in placing public debate on asylum securely in the realm of human rights. It recommends, in particular, that the authorities encourage a more balanced public debate on asylum and provide more information on the circumstances from which people claiming asylum are fleeing.
113. Since ECRI's second report, two main pieces of legislation have been introduced on asylum and immigration matters in the United Kingdom: the Nationality, Immigration and Asylum Act 2002 (NIAA)<sup>49</sup>, which entered into force in 2003, and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (AIA)<sup>50</sup>, which was adopted in September 2004. Concerns have been expressed about some of the measures contained in the NIAA and, in particular: the introduction of lists of designated countries of origin, whereby claims filed by asylum seekers coming from these countries are regarded as "clearly unfounded"; and the abolition of in-country right of appeal for asylum seekers whose claims are regarded by the Secretary of State as "clearly unfounded". Concerns have also been expressed about some of the measures contained in the AIA, notably: an extension of the definition of "safe third countries" (i.e. countries of which the asylum seeker is not a citizen and to which she or he can be removed without substantive consideration of their asylum claim or right of appeal); the reduction of appeal rights for asylum seekers<sup>51</sup>; and the creation of new immigration-related criminal offences, including being unable, without reasonable justification, to show a valid passport or other travel document to an immigration officer. More generally, it has been pointed out to ECRI that recent reviews of asylum legislation have concentrated almost exclusively on ensuring expedition in the processing of asylum applications but these and their accompanying administrative measures have not addressed to any comparable extent the quality of asylum decision-making, an area where civil society organisations dealing with asylum and refugees issues consider that there is an urgent need for improvement.

**Recommendations:**

114. ECRI recommends that the authorities of the United Kingdom ensure that the procedures in force for seeking asylum in the United Kingdom enable those in need of protection to have the merits of their individual cases thoroughly examined and do not put people at risk of being returned to countries in contravention of the principle of *non-refoulement* and Article 3 of the ECHR. To

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<sup>49</sup> See above, Constitutional provisions and other basic provisions – Citizenship legislation

<sup>50</sup> See above, Reception and status of non-citizens – Immigration.

<sup>51</sup> The current two-tier system which consists of a first decision before the adjudicator with appeals before the Immigration Appeal Tribunal is to be replaced with a single-tier procedure before the Asylum and Immigration Tribunal. A further proposal to abolish all existing rights of appeal, including judicial review and statutory review by the higher courts, was dropped.

this end, ECRI recommends in particular that the authorities of the United Kingdom review the provisions currently in force concerning designated lists of countries of origin, in-country right of appeal and removals to “safe third countries”. ECRI also recommends that the authorities of the United Kingdom take measures to improve the quality of asylum decision-making.

115. In its second report, ECRI recommended that the authorities of the United Kingdom review the provisions and arrangements concerning accommodation and support of asylum seekers. In April 2000, the authorities of the United Kingdom launched the National Asylum Support Service, a branch of the Home Office responsible, *inter alia*, for providing support to eligible destitute asylum seekers. Where accommodation is requested, asylum seekers are generally dispersed into cluster areas around the country on a “no choice” basis. Accommodation centres are also to be set up under the NIAA. These centres are meant to serve a dual purpose. Firstly, they should facilitate the processing of asylum claims, by bringing together on one site the relevant key functions, including legal advisers, interpreters, Home Office case workers and officers of the Immigration Service. Secondly, these centres should accommodate and support asylum seekers pending the examination of their claims. Services provided in the centre do not only include accommodation and sustenance, but also health care and education. Concerns have been expressed that the self-contained nature of these centres will further the isolation of asylum seekers from the rest of society and delay the integration of those whose claims will be positively assessed. Of particular concern is the fact that asylum seeker children will be educated in the centres and not together with other children in mainstream schools. Another provision in the area of support of asylum seekers that has given rise to concerns since ECRI’s second report is Section 55 of the NIAA. This Section provides that asylum seekers who do not file their applications “as soon as reasonably practicable” are not eligible for support while their claims are being considered. ECRI notes that in a test case brought by a number of destitute claimants, the High Court ruled in February 2003 that the government’s denial of all support to late asylum claimants breached their fundamental human rights. ECRI understands that an appeal on this matter will be heard before the House of Lords. Further provisions in the area of support of asylum seekers that raise concerns with ECRI are contained in Sections 9 and 10 of the AIA. Section 9, which was implemented in a number of pilot areas on 1<sup>st</sup> December 2004, provides for the withdrawal of support from asylum-seeking families who do not leave voluntarily once their claims are refused and their appeals rejected. ECRI notes that this measure entails the risk of children having to be separated from their families<sup>52</sup>. Section 10 allows the Secretary of State, in some cases, to make support conditional upon the participation in community activities (defined as “activities that appear to the Secretary of State to be beneficial to the public or a section of the public”). ECRI notes that the Joint Committee on Human Rights has considered that there is a serious risk that this measure may contravene Articles 3 and 4 of the ECHR.

<sup>52</sup> Families would be ineligible for support from local authorities under Sections 21 and 29 of the National Assistance Act 1948; support for the elderly under Section 45 of the Health Services and Public Health Act 1968; support from Social Services under the Children Act 1989 or Children (Scotland) Act 1995; accommodation under homeless legislation; promotion of well being under Section 2 of the Local Government Act 2000. However, in the event that a child’s welfare is compromised, support under Section 20 of the Children Act 1989 may be provided, but only to children under 18. Local authorities will not be able to provide accommodation and subsistence to any other members of the household.

**Recommendations:**

116. ECRI recommends that the authorities of the United Kingdom ensure that no asylum seeker is left destitute pending the examination of her or his claim. ECRI also recommends that any measures taken to provide asylum seekers with accommodation and support should not separate asylum seekers from the rest of society and should instead facilitate the early integration of those who will be allowed to stay. In particular, ECRI recommends that children who seek asylum not be educated separately from other children, but be integrated and, if necessary, supported in mainstream schools. ECRI recommends that the authorities of the United Kingdom ensure that these children not be separated from their families, even when the families have failed to comply with removal orders. In this connection, ECRI recommends that this aspect in particular of Section 9 of the AIA be reviewed in the light of experience in the pilot areas. ECRI also recommends that the authorities reconsider the provisions which make support conditional, in some cases, upon the participation in community activities.

117. Noting that many asylum seekers were held in detention without being charged with a criminal offence and that asylum seekers could still be detained at any time, for any reason and with no time limits, in its second report ECRI stressed that asylum seekers, even if their claims are not considered to be valid by the authorities, should not be treated as criminals. ECRI notes that asylum seekers in the United Kingdom can still be detained: for identification purposes; in view of removal; when they are likely to abscond; or when consideration of the asylum claim is expected to be quick. There is no time limit to administrative detention. ECRI notes with regret that, since its second report, the NIAA has repealed the provision for automatic bail hearings for persons in administrative detention, which was introduced by the Immigration and Asylum Act 1999 to provide for greater judicial scrutiny on individual decisions to detain. ECRI also notes that the NIAA changed the designation of detention centres into "removal centres". However, the criteria for detaining persons in these centres have reportedly remained unchanged. In this respect, ECRI notes that there are reports according to which it remains the practice to detain people on arrival as well as prior to removal. ECRI also notes that children, both unaccompanied and with families, may also be and have been in some cases, detained at any stage of the process. ECRI understands that in the case of unaccompanied children, this detention is temporary until they can be taken into the care of social services or in cases where their age is in doubt; in case of family groups, the detention of children happens only when the group itself is being detained. ECRI is pleased to note that in January 2002, the authorities of the United Kingdom discontinued the routine use of prison accommodation to hold some immigration detainees. However, it notes that some reports indicate that people may still be moved into prisons, although it is not clear to ECRI what the precise criteria for this are.

**Recommendations:**

118. ECRI recommends that the authorities of the United Kingdom ensure that detention of asylum seekers is limited to those situations where it is absolutely necessary, and that asylum seekers are not detained in the same facilities as criminals. ECRI also recommends that the authorities ensure that individual decisions to detain are subject to thorough and effective judicial scrutiny. ECRI

further recommends that the authorities of the United Kingdom ensure that the detention of children remains strictly limited to cases where it is absolutely necessary on a temporary basis for their immediate care, or to confirm their age or where they form part of a family group which is itself being detained.

### **The situation of Roma/Gypsies and Travellers**

119. The situation of Roma/Gypsies and Travellers throughout the United Kingdom and across a wide range of areas, including housing, education, employment, health, access to public places and dealings with the criminal justice system is cause for concern for ECRI. All evidence tends to show that Roma/Gypsies and Travellers are among the most disadvantaged and discriminated against ethnic minority groups in the United Kingdom and experience among the most severe levels of hostility and prejudice from society in general. Initiatives to improve the situation of this part of the population of the United Kingdom have been undertaken both by the government and by the non-government sector – for instance, the CRE is implementing a three-year strategy covering all areas mentioned above. However, much more remains to be done in order to bridge the gap and reduce inequalities between Roma/Gypsies and Travellers and the rest of the population.
120. Estimates concerning the size of the Roma/Gypsy and Traveller population of the United Kingdom vary considerably, although many provide a figure of around 300 000, with approximately 200 000 living in settled housing. The uncertainty concerning these figures is, at least in part, connected with the fact that the only official information on the Roma/Gypsy and Traveller population comes from counts based on the number of caravans. These figures therefore only account for the people living in caravans at the time of the count and do not reflect the number of Roma/Gypsies and Travellers living in settled housing.

#### ***Recommendations:***

121. ECRI recommends that the authorities of the United Kingdom ensure that Roma/Gypsies and Travellers are included in national and local ethnic monitoring systems. It recommends that the authorities ensure that the Roma/Gypsy and Traveller communities are thoroughly involved in all the aspects concerning the collection of such data.
122. There is general agreement that the housing situation of Roma/Gypsies and Travellers is one of the areas that need to be addressed as a matter of priority, notably in view of the role that the current poor and precarious housing situation plays in the disadvantage experienced by Roma/Gypsies and Travellers in all other areas of life, including education, health and societal prejudice. In its second report, ECRI recommended that the authorities of the United Kingdom ensure that local authorities make adequate provision of public sites for Roma/Gypsies and Travellers throughout the country. Although some local authorities have taken commendable steps in this direction, ECRI notes that there is no obligation for local authorities to provide such sites – an obligation in this sense was removed in 1994 – and no national quality standards. In this connection, ECRI notes that Roma/Gypsies and Travellers who prefer to live in mobile homes are still faced with a serious shortage of suitable sites. Furthermore, ECRI notes that security of tenure for Roma/Gypsies and Travellers on public sites also represents a problem, since inhabitants of these

sites are licensees and not tenants and therefore live under constant threat of eviction. Although the number of Roma/Gypsies and Travellers who live on private sites has increased in the last years, reports indicate that Roma/Gypsies and Travellers who acquire sites of their own find it very difficult to obtain planning permission. As a result of the difficulties encountered in accessing housing that meets their needs, today a considerable part of the non-settled Roma/Gypsy and Traveller population lives on unauthorised camps, often situated in unsuitable locations, where there is no access to basic services and facilities, and becomes as a result particularly vulnerable to hostility from the local population. Whether because of these difficulties or for other reasons, today the majority of the Roma/Gypsy and Traveller population of the United Kingdom live in settled housing. However, there are reports that their specific needs are generally not taken into account in the allocation of social housing. There are also widespread reports of harassment and intimidation of Roma/Gypsies and Travellers by other social housing tenants. ECRI notes that there is increasing awareness within the authorities of the United Kingdom of the need to mainstream Roma/Gypsy and Traveller housing needs in all housing policies. For instance, ECRI notes that the Office of the Deputy Prime Minister has undertaken a review of its policies relating to Roma/Gypsies and Travellers.

#### ***Recommendations:***

123. ECRI recommends that the authorities of the United Kingdom ensure that Roma/Gypsy and Traveller needs are mainstreamed in all housing policies both at central and at local levels, including in policies to tackle homelessness. It recommends that the authorities ensure availability of adequate public permanent and transit sites, including, as necessary, by introducing a legal obligation on local authorities to provide such sites. It also recommends that the authorities work to improve security of tenure for Roma/Gypsies and Travellers on public sites. ECRI furthermore recommends that the authorities ensure availability of private sites and tackle any instances of discrimination in the granting of planning permission. ECRI recommends that the authorities ensure that provision of social housing reflect as much as possible the specific needs of Roma/Gypsy and Traveller tenants.
  
124. In its second report, ECRI recommended that the authorities of the United Kingdom address Roma/Gypsy and Traveller education needs, including by mainstreaming Roma/Gypsy and Traveller children in general strategies to improve pupils' achievement and by developing specific policies to ensure admission and attendance of these children in schools. ECRI notes that a number of initiatives have been taken in the field of education by the authorities in England and Wales, in Scotland and in Northern Ireland, as well as by different local authorities. However, ECRI notes that Roma/Gypsy and Traveller children are still very seriously under-represented in pre-school education and in secondary education, and even more seriously under represented in post-secondary education. Roma/Gypsy and Traveller children are generally perceived as low-achievers and there are reports that some schools have been unwilling to register them out of fear of a drop in the school performance table. With rates of attendance being the lowest among all ethnic minority groups, Roma/Gypsy and Traveller children are the group most at risk of failure in the education system. ECRI has been informed of work undertaken in schools in England and Wales to ensure that schools develop and implement general anti-bullying policies. It notes, however, that research carried out in schools in

Scotland indicates that bullying is a major factor in explaining the high drop out rates of Roma/Gypsy and Traveller children there. ECRI also notes that existing opportunities for schools for integrating the teaching of the history or culture of Roma/Gypsies and Travellers in the school curriculum have reportedly been used only rarely.

**Recommendations:**

125. ECRI recommends that the authorities of the United Kingdom address the situation of disadvantage of Roma/Gypsy and Traveller children in education, by targeting specific measures to improve these children's access, attendance and achievement. It recommends, in particular, that the authorities address the issue of bullying in schools throughout the country, and devote particular attention to anti-Roma/Gypsy and Traveller bullying. ECRI also recommends that the authorities of the United Kingdom ensure that existing opportunities for schools for integrating the teaching of the history or culture of Roma/Gypsies and Travellers in the school curriculum are used in practice.
126. The situation of disadvantage faced by Roma/Gypsies and Travellers in education has an obvious impact on their employment possibilities. In addition, there are reports that Roma/Gypsies and Travellers suffer employment discrimination in recruitment and harassment in the workplace. There are also reports that Roma/Gypsies and Travellers make little use of general initiatives or schemes designed for the unemployed. Roma/Gypsies and Travellers also experience disadvantage in the labour market which are linked with the lack of a permanent address, especially as concerns the setting up of private businesses.
127. There are also reported to be wide differences in the health situation of Roma/Gypsies and Travellers compared to that of the rest of the population. Roma/Gypsies and Travellers report difficulties in registering with a General Practitioner or for health care and often only get treatment in emergency departments. There are also reports that many Roma/Gypsies and Travellers suffer from depression and mental health problems.
128. Roma/Gypsies and Travellers are also widely reported to experience discrimination in the criminal justice system. This is reflected especially in the disproportionately high numbers of "stop and searches" which they are subjected to, although there are also reports of inequalities in sentencing, in the granting of bail, and of disproportionately high numbers of remands in custody for young Roma/Gypsy and Traveller offenders. Roma/Gypsies and Travellers also report evictions and seizure of vehicles and unprofessional behaviour on the part of the police during these procedures.
129. Roma/Gypsies and Travellers are reported to be the ethnic minority group which faces the highest level of societal prejudice. By reporting in an often sensational way and using stereotypes and racist language, the media, both print and electronic, have contributed to making prejudice and sometimes outright hostility towards Roma/Gypsies and Travellers, commonplace. This is also reflected in the persistence of "No Travellers" or "No Caravan Dwellers" signs on public establishments in violation of the law.

**Recommendations:**

130. ECRI recommends that the authorities of the United Kingdom take steps to reduce the unemployment rate of Roma/Gypsies and Travellers, including through: measures aimed at increasing their use of general initiatives or schemes designed for the unemployed; measures to ensure better access and take-up of training; and measures to tackle discrimination at point of recruitment and harassment in the workplace. ECRI also recommends that the authorities of the United Kingdom research and address the situation of disadvantage of the Roma/Gypsy and Traveller population as concerns health issues. ECRI furthermore recommends that, in their efforts to raise the awareness of law enforcement officials of the issues around racism and racial discrimination, the authorities of the United Kingdom devote special attention to the need to avoid prejudice and discrimination towards Roma/Gypsies and Travellers.
131. ECRI recommends that the authorities take steps to counter the appearance of “No Travellers” or “No Caravan Dwellers” signs on public establishments, including by implementing the existing legal provisions against discrimination.
132. More generally, ECRI notes that the duty to eliminate racial discrimination, promote equal opportunities and encourage good race relations, which is binding on central and local authorities working across all areas highlighted in this Section (housing, education, health, criminal justice, etc.) constitutes a powerful tool for these authorities to mainstream Roma/Gypsy and Traveller needs in their policies and to ensure long-lasting change as a result.

**Recommendations:**

133. ECRI recommends that the authorities of the United Kingdom ensure that compliance with the duty to eliminate racial discrimination, promote equal opportunities and encourage good race relations include arrangements and outcomes relating to Roma/Gypsies and Travellers.
134. ECRI draws the attention of the authorities of the United Kingdom to its General Policy Recommendation No. 3<sup>53</sup>, which proposes a range of legislative and policy measures governments can take to combat racism and intolerance towards Roma/Gypsies and Travellers. ECRI emphasises in particular its recommendation to “develop institutional arrangements to promote an active role and participation of Roma/Gypsy communities in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing”.

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## APPENDIX

### **The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the United Kingdom**

ECRI wishes to point out that the analysis contained in its third report on the United Kingdom, is dated 17 December 2004, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on the United Kingdom was subject to a confidential dialogue with the authorities of the United Kingdom. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the authorities of the United Kingdom requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.



## “COMMENTS BY THE GOVERNMENT OF THE UNITED KINGDOM ON ECRI’S 3<sup>RD</sup> REPORT ON THE UK

### INTRODUCTION

The United Kingdom Government welcomes this opportunity to comment on ECRI’s 3<sup>rd</sup> report on the UK. We were pleased that ECRI were able to meet a wide range of officials and stakeholders during their September 2004 contact visit to the UK and that they also took the opportunity to visit Rochdale to see how policies to tackle racism, racial discrimination and promote community cohesion are having an impact at the local level.

The UK Government is firmly committed to the elimination of all forms of racism and related intolerance and to the development of policies which address racial discrimination, intolerance and violence. The Government’s aim is cohesive communities in which every individual, regardless of faith or ethnic origin, is able to fulfil his or her potential through the enjoyment of equal rights, opportunities and responsibilities.

The UK has a comprehensive body of legislation to combat racial discrimination and racist violence, which has been further strengthened since ECRI’s 2<sup>nd</sup> report on the UK:

- **The Race Relations (Amendment) Act 2000** has come into force, bringing public services fully within the scope of the Race Relations Act and placing a positive duty on public bodies to promote race equality;
- The **EU Race Directive** and the elements of the **EU Employment Directive** relating to religion or belief have been fully transposed into domestic law, providing an important additional protection against discrimination;
- The law on racially aggravated offences has been extended to include **religiously aggravated offences**, with higher penalties for such hate crimes;
- The maximum penalties for **incitement to racial hatred** have been increased from 2 to 7 years’ imprisonment and extended to prohibit incitement to hatred against groups abroad.

The Government has introduced further legislation to Parliament to:

- Prohibit incitement to religious hatred;
- Prohibit discrimination on the grounds of religion or belief in the provision of goods, facilities, services, premises and public functions; and
- Establish a single Commission for Equality and Human Rights

Delivering the Government’s vision of a successfully integrated society, that recognises and celebrates the strength in its diversity, must also be reinforced by a sense of belonging to the United Kingdom, underpinned by common human rights and shared values. The Government has therefore launched a Government wide **Community Cohesion and Race Equality Strategy** which forms the basis of a renewed programme of action across Government and more widely to build community cohesion and reduce race inequalities. The Scottish Executive will develop and publish a **Scottish Strategy** building on their recent Race Equality Review and set within the British framework. In Northern Ireland, the Government is

finalising a **Race Equality Strategy for Northern Ireland**, which will be published in 2005 alongside the Government's policy and framework on good relations.

In February 2005, the Government announced two important reviews, one of which will investigate the causes of persistent discrimination and inequality in British society. **The Equalities Review** will investigate the social, economic, cultural and other factors that limit or deny people the opportunity to make the best of their abilities; provide an understanding the underlying causes of disadvantage; make practical recommendations on key policy priorities for Government, the public sector, employers and trade unions, civil society and the voluntary sector; and inform the modernisations of equality legislation, towards a Single Equality Act and the development of the new Commission for Equality and Human Rights. **The Discrimination Law Review** will consider opportunities for creating a clearer and more streamlined legislative framework, which include a comparative analysis of the different models for discrimination legislation across the world, and examination of the practical impact of legislation and methods of enforcement.

The UK Government sees integration as a way of enabling people to practise their own culture and religion freely within the legal and democratic framework in the country. There are values and responsibilities we should all share, but within that framework all should be free to live their lives according to their own cultural background. Legislation embodied in the Nationality, Immigration and Asylum Act 2002 requires those applying for citizenship in the UK to demonstrate "sufficient knowledge of English" and knowledge of life in the UK. The aim is to help those wishing to become British citizens to learn English and gain a practical knowledge of life in the UK and an understanding of our democratic traditions to aid integration and help them work, contribute and participate in society. The purpose of the citizenship element is to develop shared values about what constitutes good citizenship. It does not mean overriding cultural diversity or religious affiliation.

UK Government policies on language and citizenship education have been developed following advice from the "Life in the UK" Advisory Group which issued its final report "The New and the Old" in September 2003. The UK aims to develop integration policies that ensure migrants are welcomed into their local community. Such policies need to be practical and flexible. Classes in citizenship and English will be piloted in selected areas over the next year by using existing facilities and building on pioneering projects and courses already in place or soon to be introduced. These measures will help new citizens to have a better understanding of the rights and responsibilities that come with the acquisition of British citizenship and help to encourage them to play both an active role in society and to feel a real sense of belonging in the wider community.

*For ease of reference this Comment covers subjects in the same order as ECRI's report and refers to the relevant paragraph numbers of ECRI's recommendations.*

#### **International legal Instruments (paragraph 4)**

The UK Government announced the outcome of its review of the UK's international human rights treaty obligations in July 2004, which included the decisions to ratify parts A and B of the *Convention on the Participation of Foreigners in Public Life at the Local Level* and to conduct a 2 year pilot of individual petition under the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), by ratifying the optional protocol to that Convention. The Government has

noted ECRI's comments on the other instruments and will take them into account in any future review.

### **Constitutional provisions and other basic provisions (Paragraphs 7-8)**

The UK's constitution is based on the premise that Parliament is sovereign. This is unlike the situation in other Council of Europe member states where a Bill of Rights cannot be amended by parliament. The Human Rights Act 1998 incorporates the ECHR into domestic UK law, but cannot provide the general superseding guarantees ECRI encourages. However, the Human Rights Act, coupled with the racial discrimination legislation as strengthened by the transposition of the EU Race Directive into domestic law, provide a robust legislative framework against racial discrimination. The Equality Bill, currently before Parliament (March 2005) sets out a fundamental duty on the proposed Commission for Equality and Human Rights to create a society in which:

- people's ability to achieve their potential is not limited by prejudice or discrimination;
- there is respect for and protection of each individual's human rights;
- there is respect for the dignity and worth of each individual;
- each individual has an equal opportunity to participate in society; and
- there is mutual respect between communities based on understanding and valuing of diversity and on shared respect for equality and human rights.

The Government has introduced legislation to the UK Parliament to establish a new Commission for Equality and Human Rights for England, Wales and Scotland. The Commission will have as part of its purpose:

- the promotion of understanding of the importance of human rights;
- the encouragement of good practice in relation to human rights;
- the promotion of awareness, understanding and protection of human rights;
- the encouragement of public authorities to comply with section of the Human Rights Act 1998 (the prohibition of action incompatible with ECHR rights).

In Northern Ireland, a Human Rights Commission (NIHRC) has been established. This is an independent body empowered to ensure that the human rights of everyone in Northern Ireland is protected in law, policy and practice. The NIHRC has an educational and advisory role, thereby providing a support mechanism for people in Northern Ireland. The NIHRC can represent individuals in cases where they feel their rights have been violated by a Public Authority. The Commission measures law, policy and practice in Northern Ireland against internationally accepted rules and principles for the protection of human rights and exercises the functions conferred on it to ensure that those rules and principles are promoted, adopted and applied throughout Northern Ireland.

The Scottish Executive is committed to establishing a Scottish Human Rights Commission within the lifetime of the current Parliament. The key functions of the Commission will include: promotion, education and awareness raising; providing guidance to public authorities; advising the Scottish Parliament on legislation after

introduction; general monitoring and reporting in relation to law and practice; and investigating and reporting on generic and sectoral human rights issues in relation to public policy. The Commission will be able to give general advice to members of the public on human rights issues, but it will not be empowered to investigate individual complaints or to support individual cases through the courts. However, the Commission will be able to provide information and advice on human rights issues to the courts in certain circumstances if requested to do so.

### **Citizenship legislation (paragraph 10)**

The Government notes ECRI's comments about the importance of ensuring that legislation on citizenship is applied in a non-discriminatory manner. As ECRI notes, there have been no significant changes in the number of applications or the refusal rate since the entry into force of the Nationality, Immigration and Asylum Act 2002. To support those people seeking to meet the new requirements, the UK is introducing English language with citizenship courses. Applicants for these courses will be given an initial assessment and allocated to a course that is appropriate to their personal learning goals. There will be a formal review of the effectiveness of pilot courses prior to them being made more widely available, including feedback from participants on the extent to which the programmes met their needs. The Government therefore believes that it has minimised any risk of direct or indirect discrimination occurring as a result of these measures but will keep the position under review.

### **Criminal law provisions**

#### *Racially aggravated offences (paragraph 13)*

ECRI's report mentions the publication of a Code of Practice on the reporting and recording of racist incidents. This Code set out the ways in which comprehensive systems could be put in place at local level for this purpose.

The Research Development and Statistics Unit within the Home Office has just completed an evaluation of the impact of this Code of Practice. The recommendations from this report have been put before the Lawrence Steering Group for discussion and are being taken forward by the Police Leadership and Powers Unit in the Home Office.

One of the key recommendations to be taken forward is the establishment of a racist incidents helpline. This will look to provide a reporting system for all victims of racist incidents as well as offering a local response to the issues raised. Work on this is currently being taken forward by the Police Leadership and Powers Unit to join up the various agencies currently working on racist incident reporting and create a national helpline.

The Crown Prosecution Service has undertaken work to ensure that racially aggravated offences are taken seriously and are not downgraded to the basic offence in order to gain a guilty plea. This work will include a clear policy lead from senior management on maintaining the correct levels of offence on racially aggravated offences. This will be closely monitored to ensure greater consistency.

Following directly from recommendation 12 of the Stephen Lawrence Inquiry Report and the Association of Chief Police Officers in Scotland's Diversity Strategy, all police forces in Scotland have been working to develop a centrally collected, comprehensive reporting and recording system for racist incidents recorded by the police. This has been co-ordinated and led by the Scottish Executive and should



provide the function necessary for analysis, profiling and action on racist incident data, looking at criteria such as time and day, location, age, gender, ethnicity, language and repetition. Data collection began on 1 January 2003 and regular publication will be a feature as the data are gathered and analysed.

Most forces have in place a system of multi-agency racist incident monitoring to consider general trends and specific cases. These have generated some joint successes but there remains scope to reinvigorate these structures and ensure quality, consistency and standardisation.

*Incitement to racial hatred (paragraph 15)*

The Government notes this recommendation and the contents of ECRI General Recommendation No 7 but does not accept them. We regret that, in framing General Recommendation No 7, ECRI did not take sufficient account on the importance that is placed on freedom of expression and association in the legal traditions of some member states. The offence of incitement to racial hatred in the Public Order Act 1986 is a high level offence with a high penalty of up to 7 years' imprisonment. It thus has considerable deterrent value. The United Kingdom has a long tradition of freedom of speech, which allows individuals to hold and express views which may be contrary to those of the majority of the population and which many may find distasteful or even offensive. Successive Governments have held the view that they have the right to express such views so long as they are not expressed violently or do not incite violence or hatred. It remains the cornerstone of UK Government policy that the criminal law should only come into play where there is the risk of real damage being done - of hatred and violence. We believe that our approach is right for Britain and its tradition and legal system. We do not believe there would be a consensus in Parliament or in the country for the Government to take on extensive additional powers to restrict freedom of speech.

*Incitement to religious hatred (paragraph 17)*

ECRI will wish to note that legislation to prohibit incitement to religious hatred in England and Wales is currently (March 2005) before Parliament.

The Working Group on Tackling Religious Hatred advised against an incitement to religious hatred offence for Scotland. The Scottish Executive accepted and still accepts that advice. The Executive is committed to ensuring that religious groups have the protection they need. The Executive has supported many initiatives which have had more immediate protective effect - for example the Executive's funding for increased security at places of worship. The Executive will keep legislation under review and if it appears that the existing law is unable to protect religious communities, the Executive will consider how best to strengthen the law. Section 74 of the Criminal Justice (Scotland) Act 2003 introduced a statutory aggravation for crimes motivated by religious prejudice.

*Blasphemy (paragraph 19)*

The Government is keeping the options on blasphemy law under review, but has no current plans to change the law.

*Northern Ireland (paragraph 22)*

The Northern Ireland Office has issues guidance on the newly enacted "Hate Crime" legislation to key stakeholders in the Criminal Justice system, including the Police Service of Northern Ireland, the Northern Ireland Court Service, the professional

judiciary, the Office of the Director of Public Prosecutions, the legal profession as well as to the community and voluntary sector.

Prior to the legislation coming into effect;

- The Northern Ireland Court Service provided guidance on the content of the new provisions to all staff and to the Judiciary.
- Copies of the legislation, explanatory memorandum and advisory notes were provided to the Northern Ireland Court service, the professional judiciary associations, the Police Service of Northern Ireland, the Office of the Director of Public Prosecutions, the Crown Solicitor's Office, the Probation Board for Northern Ireland, the Northern Ireland Human Rights Commission and the professional legal associations.
- Organisations representing groups protected by the legislation were advised of the new provisions. This included racial, religious, disabled and sexual orientation groups.

#### **Civil law provisions (paragraphs 25, 29, 31, 41)**

The Government has announced a review of discrimination law. This will inform the drafting of single equality legislation. The review will consider the opportunities for creating a clearer and more streamlined legislative framework, having due regard to better regulation principles and the practical impact of legislation in effectively overcoming inequality. This work will address long held concerns about our current framework with a view to creating a simpler, fairer law, probably through a Single Equality Bill.

It will be led by the Women & Equality Unit in the Department of Trade and Industry with the close involvement of key Departments including the Department of Work & Pensions, the Home Office and the Department of Constitutional Affairs. Key areas of this work will include:

- A consideration of the fundamental principles of discrimination legislation and its underlying concepts and a comparative analysis of the different models for discrimination legislation across the world, including the European Union and the approach being developed in Northern Ireland;
- An investigation of different approaches to enforcing discrimination law so that a spectrum of enforcement options can be considered;
- An understanding of the practical impact of legislation - both within the UK and abroad - in tackling inequality and promoting equality of opportunity;
- An investigation of new models for encouraging and incentivising compliance;
- Consideration of the opportunities for creating a clearer and more streamlined legislative framework in a Single Equality Act taking into account the need to minimise bureaucratic burdens on business and public services and to produce better outcomes for those who experience discrimination.

The Discrimination Law Review will be grounded in a comprehensive analysis of Great Britain's current legislative framework and the requirements of European equality legislation. The Discrimination Law Review will inform the development of a simpler, fairer legal framework for discrimination legislation.

The Government has introduced legislation to establish a Commission for Equality and Human Rights in Great Britain which will have responsibility for fighting discrimination on the grounds of race, sex, disability, sexual orientation, age and religion or belief. The new Commission will become operational in October 2007. ECRI will wish to note there is already a single equality act in respect of race - the Race Relations Act (as amended). As explained above, ECRI General Recommendation No 7 is an unacceptable basis for development of law in the UK because it fails to take adequate account of freedom of expression and the differences between civil and criminal law in our legal tradition.

In February 2005, in addition to the Discrimination Law review, the Government announced a root and branch review to investigate the causes of persistent discrimination and inequality in British society. The independent Equalities Review, which will be chaired by Trevor Phillips (Chair of the Commission for Racial Equality) and report to the Prime Minister by the summer of 2006, will provide a strong evidence base for the Commission for Equality and Human Rights to use in prioritising its work. The Review will:

- Investigate the social, economic, cultural and other factors that limit or deny people the opportunity to make the best of their abilities.
- Provide an understanding of the long term and underlying causes of disadvantage that need to be addressed by public policy.
- Make practical recommendations on key policy priorities for: the Government and public sector; employers and trade unions; civic society and the voluntary sector.
- Inform both the modernisation of equality legislation, towards a Single Equality Act; and the development of the new Commission for Equality and Human Rights.

In Northern Ireland, an extensive public consultation has just been completed on options for a single Equality Act which will bring together all anti-discrimination law in Northern Ireland.

The Government agrees that adequate resources are a necessary part of ensuring that this country's comprehensive laws to promote race equality are enforced. This is being reinforced through clear race equality outcomes in departmental Public Service Agreements and the Government's new Community Cohesion and Race Equality Strategy which places a strong emphasis of improving equality of outcome in key areas like employment, health, education, housing and justice. The Equality Bill, currently before the UK Parliament, will make it unlawful for public authorities in Great Britain to discriminate on the grounds of religion or belief. The Commission for Equality and Human Rights, which will take over responsibility for the monitoring and enforcement of the statutory race duty from 2009, when the Commission for Racial Equality is merged into the CEHR, will have increased powers to assist public bodies in complying with the race duty.

#### **Administration of justice (paragraph 34, 37)**

The Government welcomes ECRI's encouragement of the Government's efforts to improve monitoring of Black and minority ethnic people's experience of the criminal justice system. Developing information that is accurate, informative and accessible is the crux of the fundamental review of Race and the Criminal Justice System

statistics. This review is nearing completion and the collection of data on religion is one issue it is considering.

In Scotland discussions on the collection of ethnicity information on persons who become involved in the Scottish Criminal Justice System are at an advanced stage. It is intended that this information will be transmitted to the various criminal justice agencies involved as cases progress through the system. This will help to ensure that the special needs of members of ethnic minorities, whether accused, victim or witness, are taken into account.

The existing Criminal History system within the Scottish Criminal Record Office is currently being re-written in a project being led by the Scottish Police Information Strategy. This work is ongoing.

The Scottish Prison Service have been in discussion with the Commission for Racial Equality in a bid to improve their Race Equality Scheme and Race Relations Policy. A working group had been set up to take this piece of work forward.

The Lord Advocate issued the Association of Chief Police Officers in Scotland (ACPOS) with Guidelines (updated in 2002) as to the reporting of racist incidents to Procurators Fiscal. These Guidelines require that the police reports must cover matters such as the victim's perception of the motivation behind the incident, the impact of the incident on the victim/ the victim's family/the victim's business, the language needs of the victim/witnesses/accused and also whether there is a need for translation of official documentation. COPFS carries out an annual monitoring exercise to assess how well this is done. Each of the 11 Procurator Fiscal Areas in Scotland has an Area Diversity Team that carries out liaison with minority ethnic communities in their Areas. Several of these teams have representatives from other criminal justice agencies to try to ensure a consistency of approach. The Working Group on Interpretation and Translation (WGIT) was set up and is chaired by the COPFS. WGIT has members from ACPOS, the Law Society of Scotland, the Scottish Court Service and the Scottish Legal Aid Board. WGIT is seeking to try to establish levels of fees, vetting and monitoring that will be standard throughout the Scottish criminal justice system. Procurators Fiscal have firm guidance as to how to mark and prosecute racial cases. These include a presumption in favour of prosecution of such cases and the direction that once a prosecution has commenced for such a case, the racial element of a charge cannot be excluded where there is still sufficient evidence prove that aspect of the charge. The COPFS has developed a Diversity Awareness Programme whereby all members of COPFS staff must attend a 2 day Diversity Awareness course. The COPFS' Race Equality Action Plan and Diversity Action Plans are both published along with other useful information on the COPFS web site.

### **Legal aid (paragraph 39)**

#### *England and Wales*

The Government does not accept that blanket availability of legal aid in employment tribunal cases is necessary. Employment tribunal procedures are designed so that people can prepare and present their own cases, and there is an established tradition of advisers who are not legally trained, whether trades unions, friends, colleagues or other sources of advice. Those bringing cases alleging discrimination may also seek advice, and in some cases receive representation, from the equality commissions (currently the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission which will, in the future, come together under the umbrella of the Commission for Equality and Human Rights). Funding for general

legal advice (falling short of advocacy) is already available under the Legal Help scheme. In addition, the Lord Chancellor has the power, on receipt of a recommendation from the Legal Services Commission, to authorise "exceptional funding" for representation under the Access to Justice Act 1999 s.6(8)(b) in those few cases where representation may be essential for a fair hearing, and where no other sources of help can be found. It is worth noting that, although "exceptional funding" has been available since April 2000, the Legal Services Commission have found it appropriate to recommend very few applications to DCA in employment tribunal cases, and only three in 2004. Full Representation is available for cases brought in the Employment Appeal Tribunal.

### *Scotland*

In Scotland, Assistance by Way of Representation (ABWOR) is available for representation before employment tribunals. ABWOR is part of the Advice and Assistance scheme administered by the Scottish Legal Aid Board. Financial eligibility for Advice and Assistance is assessed by the solicitor acting on behalf of the applicant and if this test is met the solicitor can provide legal advice up to a level of expenditure of £85.

Once the solicitor ascertains that representation is required, a request for ABWOR is submitted to the Legal Aid Board, together with a request for an increase in expenditure. If the Board is satisfied that

- the case is arguable;
- it is reasonable in the particular circumstances of the case that ABWOR be made available; and
- the case is too complex to allow the applicant to present it to a minimum standard of effectiveness in person

ABWOR will be granted and the level of available expenditure will be increased. As a general approach the Board will grant an increase up to £800 to enable the solicitor to frame and lodge documents and represent the client before the tribunal. However, there is no upper level to the level of increase that may be granted if the Board is satisfied that expenditure in excess of £800 is required.

ABWOR can be made available for any of the proceedings before an employment tribunal, including proceedings relating to racial discrimination. There are no special rules for such cases.

### **Equality Commission for Northern Ireland (paragraph 43)**

There has been no reduction on the emphasis placed on combating racism as a result of the establishment of the Equality Commission for Northern Ireland, and we note that ECRI has presented no evidence to support the suggestion that there has been such a reduction.

### **Education and awareness training (paragraph 45)**

#### *England and Wales*

The framework for Citizenship in primary schools was introduced in September 2000. So, contrary to the implication of ECRI's recommendation, this is already in place at primary level. The National Curriculum includes an overarching access statement

covering the Curriculum as a whole emphasising the specific opportunities to address issues of race and racial equality. Teachers are expected to take specific action to respond to pupils' diverse needs, including, for example, creating effective learning environments in which racial differences are seen positively by pupils, and whereby negative stereotypes and racial harassment is challenged.

This is also a function of the newness of the required curriculum. In other to address this, a training programme for new specialist citizenship teachers is ongoing through the Teacher Training Agency. About 250 training places have been provided and taken up every year since September 2000. To date, over 600 have been trained and in the system and a new cohort of over 250 students started in September 2004.

In addition, the Government is developing a Continuing Professional Development certificate for Citizenship teaching. It is aimed at improving the expertise of existing teachers already in the system to improve classroom practice.

### *Scotland*

In Scotland the curriculum is not prescribed by statute. Responsibility for the management and delivery of the curriculum belongs to education authorities and head teachers, or in the case of independent schools, the boards of governors and head teachers. However, broad guidance is produced by the Scottish Executive Education Department and Learning and Teaching Scotland. Advice and guidance seeks to ensure that the curriculum secures breadth, balance, continuity and progression for all pupils.

In the 5-14 Environmental Studies National Guidelines, with "Social Subjects: Understanding People in Society" the key features; "social rules, rights and responsibilities" and "conflict and participation in decision-making in society" are particularly relevant and primary schools have used these to introduce aspects of citizenship into their work. In this context, many secondary schools (around 70%) offer Modern Studies courses in S1 and S2 which offer substantial opportunities for teaching about citizenship. In addition the guidelines on Personal and Social Development (PSD) refer specifically to learning about and developing inter-personal relationships including those with the wider community and those on Religious and Moral Education also provide opportunities to learn about and develop moral values and attitudes in the context of relationships with others in the community.

In upper secondary, from S3-S6, all pupils undertake Personal and Social Education (PSE) courses and many of these contain the strands of citizenship identified in the report. In addition those pupils who opt for modern studies after S3 will find the 'political literacy' strand particularly emphasised.

## **Reception and status of non-citizens**

### *Immigration (paragraph 50-51)*

The United Kingdom as a long history of inward and outward migration and has benefited enormously from this. Immigrants have enriched Britain's society, economy and cultural life and continue to do so. The Government has repeatedly stated that talented and motivated migrants are essential to the United Kingdom's current and future prosperity.

The Race Relations (Amendment) Act was a crucial piece of legislation. It outlawed, for the first time, racial discrimination by public authorities, including the police and immigration authorities. It was therefore a major step forward in the fight against

discrimination. The exemption of the immigration functions is a limited one. Operating immigration controls inevitably involves differential treatment on the basis of nationality and, less frequently, ethnic or national origin. For example: visa regimes on certain countries; free movement rights for European Union citizens; and immigration rules giving preferential treatment to Commonwealth citizens.

Section 19 D of the Race Relations (Amendment) Act 2000 is limited in its scope. It is needed because of the tough nature of the Race Relations (Amendment) Act. It is not a blank cheque to discriminate. Each case is considered on its merits, and it allows the Immigration Service to focus its resources in a logical way, and to operate an intelligence-led immigration control. Section 19D provides that discrimination on the basis of nationality of national or ethnic origin is not unlawful if it is required by immigration legislation, or if it is expressly authorised by ministers, who are accountable to Parliament. There is also a statutory watchdog, who reports to Parliament on the operation of these authorisations. So there are in effect safeguards on the operation of this limited power.

Existing authorisations allow the Immigration Service to prioritise arriving passengers for examination on the basis of nationality and prioritise asylum claims for consideration on the same basis. To put this in context, some 90 million passengers arrive at UK ports each year, of whom 20 million are foreign nationals subject to control.

The Government will keep section 8 of the Asylum and Immigration Act 1996 under review, and we are currently working with the Commission for Racial Equality and other relevant organisations to amend our Code of Practice for employers on the avoidance of race discrimination in recruitment practices. The Government would take seriously any evidence that demonstrated the legislation was causing widespread racial discrimination by employers. There are no current plans to repeal section 8.

#### *Right to marry (paragraph 52)*

The right to marry under ECHR Article 12 is not absolute but is subject to “national laws governing the exercise of that right”. It is well established that such laws may lay down the requisite formalities and rules of capacity but they may not injure the “substance of that right”.

We are satisfied that the marriage provisions of the Asylum & Immigration (Treatment of Claimants) Act 2004 do not impact unfairly or discriminate against a particular faith or nationality. All persons subject to immigration control will need to comply with the new procedures.

#### **Access to education**

##### *England and Wales*

#### *Achievement and Monitoring Data (paragraph 57)*

In January 2002 the Department for Education and Skills introduced the Pupil Level Annual School Census (PLASC) in schools in England. PLASC allows pupil level data such as gender and ethnic background to be cross-referenced to other data such as achievement data. This applies at school, local education authority and national levels. Revised ethnic background categories that reflect those used in the 2001 national population census were introduced in January 2003. Data on the achievement of pupils by ethnic group and gender are among the data now published

annually by the DfES. Published data is at national and local education authority level and includes both primary and secondary phase data. These data directly inform national and local education strategies. All local education authorities have to include in their Educational Development Plans their strategies to raise the educational achievement of minority ethnic pupils including those pupils whose first language is other than English.

### *Targeted Funding*

In 2004-2005 the Department for Education and Skills introduced phased adjustments to the Ethnic Minority Achievement Grant (part of the Standards Fund) to introduce a needs-based formula allocation for this grant. This grant is currently worth £162 million of additional targeted support. The new formula is based on numbers of nationally underachieving minority ethnic pupils and numbers of pupils whose first language is other than English. The majority of the phased changes will begin to apply in 2005-2006.

### *Support for Bilingual Learners.*

The Department for Education and Skills is undertaking a range of targeted support for minority ethnic pupils and pupils whose first language is other than English. This work follows a major national consultation in 2003 "*Aiming High; Raising the Achievement of Minority Ethnic Pupils*". Projects that will benefit bilingual pupils under the "*Aiming High*" initiative include the development of accredited training for specialist teachers working with bilingual pupils and developing accredited training for teaching assistants and other support staff. Additional targeted training is being undertaken through the Primary National Strategy to give greater confidence and skills to mainstream teachers working with bilingual primary school children. The Department for Education and Skills is also promoting the development of Advanced Skills Teachers with expertise in working with and planning for educational needs of bilingual learners. The Department for Education and Skills is also developing with the Qualifications and Curriculum Authority additional training to help teachers use a consistent national assessment of English language development in bilingual pupils. This links in with English in the national curriculum levels already familiar to most teachers and will emphasise the teaching and learning benefits of continuous assessment and targeted support for bilingual pupils.

It is the responsibility of the Commission for Racial Equality to enforce compliance with the race relations legislation. In the first instance, however, it is the responsibility of the Office for Standards in Education (Ofsted) to inspect schools and Local Education Authorities for compliance with their duties under the Race Relations (Amendment) Act 2000.

The Race Relations (Amendment) Act places a general duty to promote race equality on all public bodies, including schools and Local Education Authorities; and specific duties on schools to ensure that the general duty is met. The specific duties include monitoring and assessing the impact of all their policies on pupils from different ethnic backgrounds to ensure that no policies have an adverse impact on pupils from minority ethnic backgrounds.

If a school or local education authority is found not to be in compliance, this is noted in the published report of the inspection, and they must work with Ofsted, and in certain cases, the Department for Education and Skills, to ensure that corrective actions are taken. The Commission for Racial Equality has powers to intervene where it is not satisfied that enough has been done.



The Government is wholly committed to promoting equality of opportunity in schools and closing the educational achievement gap that exists between some groups of minority ethnic pupils and other students, although it is important to realise that certain groups of minority ethnic pupils already achieve at the highest levels. The Government's Spending Review of 2004 strengthened targets on reducing racial inequalities in education for the period 2005-10. In particular, the Department for Education and Skills will monitor progress in tackling race inequalities in rates of achievement in secondary school qualifications and in rates of participation in higher education.

However, the Department for Education and Skills has not set separate ethnic minority targets as this may be perceived as setting a cap on attainment for some minority ethnic groups, and this would be very unhelpful. Instead, officials are working to develop a performance indicator to underpin the Department's key attainment targets, which focuses on raising the achievement of all low achieving pupils.

The Government is concerned about disproportionate numbers of Black and minority ethnic exclusions, particularly Black Caribbean boys. The latest permanent exclusions statistics (for 2002/03) show that there has been a significant reduction in numbers of Black pupils excluded: from 62 per ten thousand in 1996-97 to 25 per ten thousand in 2002-03. This is a decrease from 30 per ten thousand in 2001-02. In particular, Black Caribbean exclusions decreased from 42 per ten thousand in 2001-02 to 37 per ten thousand in 2002-03. However this still compares unfavourably with the average overall permanent exclusion rate in 2002-03 of 13 per ten thousand pupils and 12 per ten thousand for White pupils.

The Department for Education and Skills have demonstrated commitment to fair treatment of Black and ethnic minority pupils in the revised guidance on exclusions from school, issued in March 2004. It emphasises fair treatment and draws attention to schools' duty to assess the impact of their policies on pupils, parents and staff from different ethnic groups. Governing bodies and independent appeal panels must take into account allegations of racial discrimination when considering exclusions and new training materials will emphasise this.

The Department is now collecting termly data on fixed term exclusions as well as permanent exclusions, which will provide comprehensive data about all exclusions and much clearer information about the pattern of Black and minority ethnic exclusions and the reasons for them. This will be rigorously analysed and an action plan developed.

The Department has commissioned research which started in September 2002 to: examine the pattern of minority ethnic exclusions nationally; provide information about schools that historically have excluded more minority ethnic pupils on average; and to examine the impact of measures taken by local education authorities and schools in response to the Race Relations (Amendment) Act 2000 on the numbers and process of exclusions amongst minority ethnic groups. The research is highlighting examples of good practice in this area and is intended to inform future policy on Black and minority ethnic exclusions. A final report is due in early 2005. We have also added an exclusions good practice case study to our website telling how a school in North London has successfully combated their exclusion of Black boys through positive programmes. We are planning to add further good practice case studies.

## Scotland

In Scotland, the monitoring of data on school exclusions has not revealed higher rates of exclusion for Black and minority ethnic pupils, but rates have risen very slightly in 2003/04. The Scottish Executive will monitor any emerging trends over the next three years. Data is broken down by ethnicity on exclusion and absence and in the school census.

### Recruitment and retention of teachers (paragraph 58)

Funding of £1.5 million has been allocated in 2005/06 to support providers' efforts to develop and refine sustainable new practices that will enable them to recruit and retain more trainees from minority ethnic communities. By November 2006 the Teacher Training Agency (TTA) aims to increase the recruitment of trainees with a minority ethnic background to 9 per cent of all new entrants. When the national target has been achieved the TTA intends to sustain recruitment at this level for at least a further three years.

Providers will continue to be supported in successfully increasing the recruitment of minority ethnic trainees through race awareness training for staff involved in teacher training courses; reviewing and refining recruitment processes; developing targeted marketing of teacher training courses to minority ethnic communities; facilitating application support workshops; updating school mentor training and supporting other activities aimed at improving recruitment and retention.

### Segregation in schools (paragraph 59)

#### England and Wales

This recommendation is based upon the independent report into the 2001 disturbances in Northern English towns by Ted Cantle, and its data on the self-segregation of school populations and the local communities cannot be automatically extrapolated nationwide.

The proposals in this report that schools should seek to avoid more than 75% of pupils from one culture or ethnic background is inconsistent with Government policy on school admissions, which seeks to comply with parental preference to the maximum extent. The proposals would also be open to legal challenge as they would entail treating pupils from different ethnic backgrounds in different ways.

A better solution, and one which is consistent with Cantle's other proposals, is to get schools with different cultural compositions to find ways of enabling the pupils to mix. This was put forward in the Denham Report<sup>1</sup>, which set out Government policy on promoting community cohesion. Key elements of the strategy for education are strengthening the links between schools through a variety of partnership arrangements, and between schools and their communities by encouraging schools to act as resources for the whole community.

However, there separately have been some modifications to schools admissions policies. The Education Act 2002 made Admissions Forums mandatory from 31 January 2003 to promote local discussions between all those with an interest in admissions. They will consider how well admission arrangements serve the interests of local parents and children and will aim to reach a consensus on how best to meet

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<sup>1</sup> *Building Cohesive Communities: A Report of the Ministerial Group on Community Cohesion and Public Order*, John Denham, 2001.

the needs of all those seeking a place in their area so that all pupils have a fair opportunity. Their remit includes considering how well existing and proposed admission arrangements serve the interests of local children and parents. They have the power to advise admission authorities about any aspect of their arrangements and admission authorities must have regard to that advice.

#### *Scotland*

The Scottish Executive is strongly opposed to religious intolerance and prejudice in any form. A National Priority in Education is to promote equality and help every pupil benefit from education. Under the law in Scotland, all schools run by education authorities, including faith schools, have to be open to pupils of all denominations.

#### *Northern Ireland*

In Northern Ireland, by law, all schools are open to all pupils regardless of religion. In practice, the vast majority of Protestant children attend state (controlled) schools, while most Roman Catholic children are enrolled in separate Catholic (maintained) schools. To date, Government has accepted this as an expression of parental wishes and has not attempted to impose integrated schools.

### **Access to health (paragraph 61)**

#### *England and Wales*

In January 2005, the Department of Health published "Delivering Race Equality", a comprehensive action plan for tackling inequalities and discrimination in mental health services in England and Wales, together with its positive formal response to the independent inquiry into the death of David Bennett. The implementation of both will form an important plan of the Department's wider Black and minority ethnic mental health programme, overseen by a new programme management board.

A person who has formally applied for asylum in the United Kingdom is able to access National Health Service treatment without charge for as long as their application (including appeals) is under consideration. Voluntary health assessments for newly arrived asylum seekers at induction centres aim to address immediate healthcare needs, and identify on-going and non-urgent healthcare needs (and record these in a patient held record) for attention in the areas to which the Home Office disperses asylum seekers.

#### *Scotland*

With regard to general access to health services and addressing inequalities experienced by different ethnic groups, all National Health Service Boards have developed a 'Fair for All' action plan as well as their Race Equality Scheme. Evidence of culturally-competent services is measured by the Health Department's Performance Assessment Framework and Accountability Review process. The Department funds the National Resource Centre for Ethnic Minority Health which provides support to National Health Service Boards in the development and implementation of their race equality policies.

The Scottish Executive welcomes the recommendation made in the report on intensifying work to address the disproportionate representation of ethnic groups among users of mental health services.

The Scottish Executive's National Programme for Improving Mental Health & Well-Being is taking forward work on inequalities and mental health as part of its overall strategy on improvement in public mental well-being. To begin to address this issue the National Programme has commissioned research from the Scottish Development Centre for Mental Health on Inequalities and have received a final draft. The National Programme aim to publish this work early in 2005.

The National Programme also supports the work of the National Resource Centre for Ethnic Minority Health. The National Resource Centre has recently undertaken a review of National Health Service mental health services that are working to address inequalities, we look forward to these being published in the coming year and using it as a platform to intensify work.

The National Resource Centre for Ethnic Minority Health has delivered a series of seminars across Scotland targeted at health service providers. These seminars focus on reinforcing previous guidance to Health Boards on providing services and strategies that are appropriate and responsive to the needs of ethnic minority communities.

### **Employment (paragraph 64)**

#### *England and Wales*

The March 2003 Strategy Unit report on Ethnic Minorities in the Labour Market (to which ECRI refer in their report), examined and analysed the extent, nature and causes of ethnic minority disadvantage in the labour market. The Government's strategy to raise the ethnic minority employment rate addresses the three main factors in the ethnic minority employment disadvantage:

- 1: Lack of human capital - such as skills, qualifications and experience
- 2: Geography, including residency in deprived areas
- 3: Employer Discrimination

The key mechanism for delivering this cross-Governmental strategy is the Ethnic Minority Employment Task Force, which was set up in September 2003 to take forward the 28 recommendations of the Strategy Unit Report. In identifying discrimination as one of the 3 main factors causing ethnic minority disadvantage in the labour market, the Government has therefore acknowledged the importance of this factor. The year one progress report on the governments response to the Strategy Unit report "Equality Opportunity Success (Nov 2004) identified working with employers to reduce workplace discrimination and greater use of procurement to promote race equality as priorities for the next 12 months.

The Government is committed to reducing inequality in the labour market and removing disproportionate barriers over the next 10 years. The Race Relations (Amendment) Act 2000 puts a duty on all public authorities to monitor employment outcomes for all ethnic groups. Although there are no plans to extend these duties to the private sector, we see the new legislative duty acting as a lever to raise standards in all sectors of society. More and more private sector organisations are recognising the benefits of diversity in today's increasingly competitive and global economy. We shall continue to work with businesses and other partners to identify what works best and to promote good practice. The Commission for Racial Equality are undertaking a number of initiatives to promote race equality in the private sector, including:

- a revised code of practice in employment which advocates ethnic monitoring and
- a guide for small business “Race Equality and the smaller business”

The Government is committed to achieving fully representative workforces across the public sector. Employment targets are often split into operational and non-operational sections to ensure that ethnic minorities are not concentrated in back office areas. The Cabinet Office has ownership of government-wide targets for diversity of senior civil servants, including a target for ethnic minority senior civil servants. The Local Government Best Value framework includes indicators for ethnic minority staff in Local Authorities compared to the proportion of ethnic minority people in the area. There is also an indicator for the proportion of top earners in the authority.

### Scotland

The Scottish Executive is committed to considering the implications of the *Ethnic Minorities and the Labour Market Report 2003* for Scotland and will use the Department of Work and Pensions progress report published in November 2004 to take stock of progress to date both at UK and Scottish level.

A number of projects and initiatives are underway in Scotland including:

- A scoping study was commissioned to look at the demographics of minority ethnic small and medium sized business in Scotland and to identify common issues experienced by minority ethnic business people. This also explores specific pathways of opportunity / disadvantage faced. The final report is due to be finalised by May 2005, and launched in May/ June 2005.
- an analysis of ethnicity data in the 2001 Census. This is not intended to be a definitive analysis of ethnicity, but highlights some interesting differentials between different ethnic groups across various policy areas including employment and education. We held a seminar in February 2004 to look at the implications of this analysis for research and policy and a report has been published.
- The Scottish Welfare to Work Task Force, of which Diversity Works is a sub-group, is appointed by Scottish Executive Ministers to help increase the number of economically active people in Scotland. One of the Task Force’s key targets this operational year was to establish and hand over to Jobcentre Plus and partner organisations a working model to deliver job opportunities and improved representation in the workforce for minority ethnic groups in Scotland. The first Diversity Works employment fair was held in Glasgow on 16<sup>th</sup> June 2004. The open day attracted nearly 100 capable and motivated candidates seeking employment. The event brought together high quality employers from both the private and public sector, all of whom had identified a range of vacancies within their organisations and delivered informal discussions and job applications with the candidates. There have been 10 successful job entries from this event. A second Glasgow event is planned for early 2005 before the model is handed over to Jobcentre Plus to roll out in other areas across Scotland.
- The Scottish Trades Union Congress’s “One Workplace. Equal Rights” project ([www.oneworkplace.co.uk](http://www.oneworkplace.co.uk)) aims to tackle racism and promote equal opportunities in workplaces across Scotland as well as build the capacity of

trade unions to bargain for, and promote, equality in the workplace. The project offers information and support to trade unions, employers and employees.

### *Northern Ireland*

In Northern Ireland, with effect from 1 April 2005, all public procurement in the Northern Ireland Civil Service will be carried out by the Central Procurement Directorate or a Centre of Procurement Expertise. These organisations include within their Terms and Conditions of Contract a clause which requires the contractor to (a) comply with equality and fair employment legislation and (b) to ensure that in his/her employment policies and in the delivery of the particular contract there shall be no unjustifiable inequality of treatment of people within the nine categories listed in Section 75 of the Northern Ireland Act - within which is included people of different racial origin.

### **Faith communities (paragraphs 67, 69, 72-73)**

The UK Government and the devolved administrations have a clear vision of a diverse but integrated Britain - one which values the contribution made by each of our ethnic, cultural and faith communities. We are determined to see a truly dynamic society, in which people from different faith backgrounds can live and work together, whilst retaining their distinctive identities, in an atmosphere of mutual respect and understanding. The Government believes that discrimination and intolerance directed against individuals because of their religion or belief (or presumed religion or belief) is unacceptable. In 2001, Parliament approved laws creating specific religiously aggravated offences (along the lines of existing racially aggravated offences) with higher penalties for such hate crimes. The Government considers such hate crimes to be crimes against the whole community. These measures were introduced as a direct response to concerns that the terrorist attacks of 11 September 2001 would be used as a pretext to target the Muslim community. Government ministers, including the Prime Minister, have also spoken out strongly against attempts to equate Islam with terrorism.

Government ministers officials have been in regular contact with faith community organisations and they have been regularly consulted during the development of policies and laws to tackle discrimination and intolerance.

The Government has introduced legislation to prohibit discrimination in Great Britain on the grounds of religion or belief in the provision of goods, facilities, services and premises and in public functions. Religious discrimination in employment and vocation training is already unlawful. The Government has also introduced legislation to prohibit incitement to religious hatred in England and Wales.

In Northern Ireland the Fair Employment and Treatment (Northern Ireland) Order 1998, which prohibits discrimination on the ground of religious belief or political opinion, already extends to the provision of goods, facilities, services and premises.

Government welcomes all moves intended to break down the barriers between people - whether those barriers are due to religious faith, race, culture or tradition. Many people of different faiths share common problems in our society today regardless of their religious beliefs. All faith communities and traditions have potentially useful insights. There are also many shared values and ideals: good community relations; integrity in public life; a sense of right and wrong; learning, wisdom and love of truth; care and compassion; justice and peace; and respect for

one another and for the earth and its creatures. Such values can be a real resource in the practical implementation of community cohesion strategies.

The Government is keen to facilitate inter faith dialogue, to ensure that these common values are built on and that good relations between faith communities in Britain are maintained. The fruits of the growing dialogue between the faith communities and Government are the increasing involvement of faiths in policy development by individual departments. Faith communities have also been at the heart of planning one-off national events such as the Millennium and the Queen's Golden Jubilee. The important role of faith in modern Britain was fully reflected in these events.

In 2004, the Government reviewed the way that it works with the faith communities, to spread good practice and identify possible improvements. We are now implementing the recommendations of the review report (*Working Together*) and the steering group chaired by a Home Office minister will reconvene soon to measure progress.

The Home Office core funds the Inter Faith Network for the UK, which has worked with the Local Government Association to issue guidance to local authorities on involving the faith communities in local decision making. The Inter Faith Network has also produced valuable guidance to those wanting to set up local inter faith groups and on inter faith activity for young people. It has also produced a directory of inter faith groups, of which there are now around 200. The development of local inter faith structures, bringing together representatives of different faith communities in a local authority area, provides a valuable framework both for promoting mutual understanding and co-operation between them.

In 2004, the Home Office worked with the Royal Commonwealth Society on a programme of model Commonwealth Heads of Government meetings around the UK, where young people from different faith communities came together to debate issues of global importance from the point of view of their religious traditions.

Home Office Ministers have met a number of important national interfaith bodies, such as the Council of Christians and Jews, the Three Faiths Forum and the Maimonides Foundation, and have engaged with their opposite numbers in EU partner countries to promote European inter faith activity.

The Scottish Executive is strongly opposed to all forms of religious discrimination and recognises that manifestations of Islamophobia need to be addressed for the benefit of all Scottish communities. The Executive is currently working with Scottish Muslim organisations to develop closer links with Muslim communities in Scotland and so identify a clear way of working more closely in the future. The Scottish Executive supports and encourages interfaith dialogue, and funds the Scottish Inter Faith Council with £302,750 over a three year period. The Scottish Executive funds the Scottish Inter Faith Youth Conference on an annual basis amounting to £2,500. The Scottish Executive funds and is a partner in hosting Holocaust Memorial Day events in Scotland to the amount of £45,000.

The Scottish Executive Equality Unit set up a Core Liaison Group which consists of members of all major faiths in Scotland. This group was established as a conduit for collating and disseminating information and which would be able to identify the appropriate representatives within their faith communities to participate in various policy discussions and consultations.

In entering into this new phase of open dialogue, the Scottish Executive hopes to ensure open channels of communication; enhance transparency in governmental policy and decision-making; and increase engagement with church and faith groups in Scotland to encourage their participation at all levels of civic society.

The implementing of such a structure will ensure a vehicle is available which will maintain a close relationship with faith leaders and representatives, so they can flag up either; any concerns that good practice is not being followed; or, new issues which Government needs to address. This will also ensure that such dialogue and consultation, when required, can be accessed via the relevant policy areas within the Scottish Executive.

### **Northern Ireland (paragraph 76)**

Action to combat racism and racial discrimination against minority ethnic people in Northern Ireland remains a key priority for Government.

Government will publish a Race Equality Strategy for Northern Ireland early in 2005. The Northern Ireland Race Equality strategy will be consistent with and complement the UK Community Cohesion and Racial Equality Strategy (“Improving opportunity; strengthening society”). This UK wide strategy reinforces the implementation of Government’s obligations under the International Convention for the Elimination of all forms of Racial Discrimination and will meet Government’s commitments to actions agreed at the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, including the development of a national action plan against racism.

The Government sees it as vital to demonstrate clearly intolerance of racist attacks through the weight of the criminal law and to allow the justice system to respond to the perpetrators of such criminal behaviour firmly and appropriately. And it is essential that prosecutors and courts have the tools available to them to deal with such behaviour. In February 2004, proposals were laid before Parliament to do just that and an Order making it a statutory requirement for judges to treat racial and religious aggravation and hatred of sexual orientation as well as disability, as an aggravating factor when sentencing came into effect on 28 September 2004. The Order gives judges greater powers in sentencing where aggravation is proven.

Enforcement action by the Police Service of Northern Ireland (PSNI) will continue to be a key to dealing with racist attacks and incidents. In response to a recent upsurge in attacks, the PSNI has implemented a programme of education and enforcement measures. These include high visibility patrolling in areas where minority ethnic people feel vulnerable; and the appointment of minority ethnic liaison officers in each neighbourhood. PSNI have also set up a South Belfast ethnic minority forum to help address these issues and they are seeking to maintain close liaison between local sector officers and community and elected representatives.

In addition, officers are undergoing training in religious diversity. They are also learning from experience elsewhere about tackling race hate crime. They are liaising with officers in the Leeds Bradford Hate Crimes Unit in West Yorkshire to establish best practice in this area.

Government is also aware of the need to go beyond a criminal justice response to tackle the conditions that give rise to - but can never be an excuse for - racist attacks and incidents. The underlying causes of racist violence in Northern Ireland are complex and inter-linked. In considering them, it is important to take account of



the legacy of over 30 years of violence and conflict. The conflict in Northern Ireland has created patterns and attitudes - such as residential segregation and heightened territorial awareness - that now adversely affect minority ethnic communities.

Northern Ireland Departments and the Northern Ireland Office have been working hard to develop a co-ordinated approach to tackling racism, racial inequalities as well as developing measures to deal with and prevent racist attacks and racial incidents.

The Northern Ireland Office Community Safety Strategy identifies hate crime (including race crime) as a key issue. The strategy gives clear commitments to bring about legislative change and to develop effective local strategies and solutions. The strategy will also take account of race crime and incidents within work on other key issues including work on tackling anti-social behaviour and neighbourhood disorder, and work on addressing the fear of crime and reducing business and retail crime.

The Northern Ireland Office Community Safety Unit has facilitated the development of a multi-agency working group on recording and monitoring incidents motivated by hatred. This working group will put in place an operational pilot in 2005 and will work closely with the Northern Ireland Race Forum.

#### *Good Relations Policy*

The Government is currently developing its policy on improving relations in Northern Ireland. Respondents to the Shared Future consultation have urged Government to deliver policies for good relations that will address the need to eliminate racism as well as sectarianism, and enable people to live and work without fear or intimidation.

#### *Northern Ireland Race Equality Strategy*

As the ECRI report notes, the Government is finalising a Race Equality Strategy for Northern Ireland. The finalised strategy will be published early in 2005, alongside the Government's policy and framework on Good Relations. The Race Equality Strategy will cover the full range of policy issues that impact on the daily lives of people from minority ethnic communities. It will provide a framework for Government Departments and others to tackle the root causes of the racial inequalities experienced by minority ethnic people in Northern Ireland. The focus will be very firmly on achieving concrete race equality outcomes.

#### *Migrant Workers*

Northern Ireland is now seen internationally as a place where people want to come to: to visit, to work, to live, to settle. More and more migrant workers in particular have moved there in recent times - to provide the skills and labour that is needed in Northern Ireland. The speed and extent of the increase in numbers of migrant workers in Northern Ireland - and the sheer diversity of the people involved - poses complex challenges to the region.

The Northern Ireland Race Equality Strategy will cover the situation of migrant workers in Northern Ireland. This dimension will be informed by research which has been commissioned by the Office of the First Minister and Deputy First Minister. (Kathryn Bell, Neil Jarman and Thomas Lefebvre (2004). *Migrant Workers in Northern Ireland*. Belfast, Institute for Conflict Research: <http://www.conflictresearch.org.uk>)

### *Irish Travellers*

The Northern Ireland Race Forum was created on 25 February 2003 to support and oversee the implementation of the Northern Ireland Race Equality Strategy and to discuss matters of importance to minority ethnic people in Northern Ireland. The Forum has representatives from all Northern Ireland departments, the community and voluntary sector, representatives of minority ethnic communities as well as local district councils. The Forum provides a platform for community and voluntary organisations - especially those representing minority ethnic communities - to play a full part in developing and implementing the Race Equality Strategy and advising Government on issues relating to minority ethnic people.

A thematic group on Travellers' Issues has been established within the Northern Ireland Race Forum. Irish Travellers are classified as a minority ethnic group within legislation. In February 2003, the Northern Ireland Administration issued its formal response to the recommendations of a Promoting Social Inclusion working group (made up of Departments and community and voluntary sector representatives) to examine ways of alleviating the social exclusion and hardship suffered by Irish Travellers. The thematic group on Travellers' Issues will oversee the implementation of the Government's response.

The thematic group on Travellers' issues has met regularly throughout 2004, and has received and scrutinised presentations detailing progress with PSI implementation from several Government departments.

The Department for Social Development and the Department for Regional Development have made progress with a multi-agency approach, putting in place accommodation strategies recommended by the Promoting Social Inclusion (PSI) Working Group on Travellers and improving key relationships between Travellers and agencies such as the Northern Ireland Housing Executive.

The Department of Education in Northern Ireland has responsibility for the implementation of 11 the PSI recommendations. Of these 11, significant progress has been made in nine. One recommendation was not accepted, and the other, relating to the wearing of school uniforms, has not been progressed due to competing priorities. The Department will however continue to monitor progress, and provide all help necessary to ensure all the accepted recommendations are implemented.

### **The media (paragraph 79)**

The UK Government shares ECRI's concerns at the publication of racist or inflammatory material, and points out that the laws on incitement to racial hatred apply to all such media. The Government recognises that the print media, particularly at the local and regional level, can help shape opinion in a positive or negative way. The Community Cohesion Unit (based in the Home Office) therefore established a media practitioners group in May 2003 to advise on how the press might help promote community cohesion. The Group includes representatives of broadcasting companies, national, regional and local newspapers, the ethnic minority press, local authorities, the Commission for Racial Equality, the Refugee Council, the Society of Editors and the Media Trust. The Group has produced guidance for local authorities (for example on the production of press releases and how to relate to the media) and is currently working on a booklet to help editors and journalists understand community cohesion, faith and race issues and where to find accurate information on these subjects.

A free and vibrant press, that is able to challenge and criticise Government, is an important element of a democratic society. The press in UK has established its own self-regulatory body, the Press Complaints Commission, which will consider complaints from individuals. The Government has no role in the Press Complaints Commission, nor does it wish to do so as that would interfere with freedom of the press. ECRI may be interested to note that the Press Complaints Commission has drawn to the attention of editors the fact that one source of complaints relating to press coverage of refugees and asylum seekers is about incorrect use of terminology - and that this issue is covered under Clause 1 (Accuracy) of the Code of Practice. The Commission expressed concern that editors should ensure that journalists are mindful of the problems that can occur and take care to avoid misleading or distorted terminology in the coverage of issues relating to refugees and asylum seekers. By way of example, as an “asylum seeker” is someone currently seeking refugee status, there can be no such thing in law as an “illegal asylum seeker”. An asylum seeker can only become an “illegal immigrant” if he or she remains in the UK after having failed to respond to a removal notice. Editors are already aware that pejorative or irrelevant reference to a person’s race, religion, or nationality is already prohibited under Clause 13 (Discrimination) of the Code. Similarly, the Commission - in previous adjudications under Clause 1 (Accuracy) of the Code - has underlined the danger that inaccurate, misleading or distorted reporting may generate an atmosphere of fear and hostility that is not borne out by the facts.

#### **Stephen Lawrence Report (paragraph 82)**

Following the publication of the Stephen Lawrence Inquiry Report the then Home Secretary published his Action Plan to take forward the recommendations of the report. The vast majority of the Report’s recommendations have now been implemented, changing the way the police and other criminal justice agencies respond to race equality in the workplace and in service delivery.

The Home Office, Association of Police Authorities and the Association of Chief Police Officers have jointly issued guidance on a number of policies aimed at improving police performance in the area of race equality.

It is now five years since the publication of the Inquiry Report and the Home Office has conducted research to evaluate what progress has been made. Emerging findings indicate some progress has been made, however there is still some way to go to increase the level of understanding required to ensure all practices promote race equality, thus increasing trust and confidence in the police and the wider criminal justice agencies.

The Home Office, other Authorities, and Police Service will continue to take this work forward based on the recommendations from the research.

#### **Stop and search (paragraph 84)**

Ministers launched the Stop and Search Action Team (SSAT) in July 2004 with the aim to make sure that the police service use the stop and search power fairly and as effectively as possible to prevent and detect crime. Specifically, SSAT will aim to increase the confidence that the Black and Minority Ethnic community have in the way the police use this power, and reduce disproportionality.

SSAT’s governance structure uses a Delivery Board and Community Panel to take forward its work programme. The Delivery Board is co-chaired by Doreen Lawrence. The Board ensures that SSAT delivers against its work programme as well as providing

expert and professional advice. The Community Panel is chaired by Lord Adebawale and has been formed exclusively of independent members. The Panel provides advice to SSAT and the Delivery Board on the race and community impact of its work programme, and acts as a scrutiny panel for the work of SSAT.

SSAT's work programme focuses on three areas:

- develop a practice orientated package by working with forces to support them in improving their practices;
- develop and deliver multi-agency research to understand better the nature of the problem of disproportionality;
- publish comprehensive guidance on Stop and Search incorporating all available products of the work programme.

SSAT will issue a draft stop and search manual on 25th January 2005 for a 6-week public consultation. A final version of the document will be published in late March 2005. It will incorporate all the information from the above work streams. Its aim will be to help forces tackle disproportionality, and will pinpoint good and innovative practice in the use of the power. It will also aim to raise the awareness of communities.

The Police service is preparing for the implementation of recommendation 61 of the Stephen Lawrence Inquiry Report. All forces will be recording stops, as well as stop and search, by 1 April 2005 at the latest.

In Scotland, since April 2004, the ethnicity of persons subject to stop or search and interview by Scottish police has started to be recorded. The method of recording is via existing force recording systems.

#### **Police complaints bodies (Paragraph 86)**

The Government is very pleased with the start made by the Independent Police Complaints Commission which has launched 22 independent investigations since it became operational on 1 April 2004. They have every confidence in them and are satisfied that their funding, which has enabled them to recruit 72 independent investigative staff, is at an appropriate level.

On 24 February 2005, Scottish Ministers announced proposals to set up a new independent body to investigate non-criminal complaints against the police and ensure Scotland has a modern, transparent complaints system. The consultation, *Supporting police, protecting communities: proposals for legislation*, will last until 4 May 2005 and will pave the way for new legislation to strengthen and improve policing and law enforcement in Scotland.

#### **Deaths in custody (Paragraph 88)**

Every death in custody is a cause for concern and is treated very seriously. For this reason, police forces across the country are taking a range of actions to reduce such deaths. These include safer custody facilities, improved training, closed circuit television monitoring and an emphasis on better care, assessment and monitoring of detainees.

The figures for 2002/03 showed a significant rise in the number of deaths during or following police contact of those from ethnic minority groups. It is a matter of serious concern that the numbers rose from 7 in 2001/02 to 22 in 2002/03.

Independent research was commissioned to find out if ethnicity played a part in these deaths or whether these people received inadequate care whilst in police custody. Dr David Best (formerly of the Police Complaints Authority) carried out the research and examined in detail the circumstances surrounding 26 ethnic minority deaths that had occurred between 1 April 1998 and 31 March 2003. Possible concerns over ethnicity were raised in four of these cases because of the inadequacy of the treatment that the individual received in the hands of the police. Nonetheless, in none of the completed cases from this group did the Investigating Officer attribute any of the errors to racist attitudes or behaviour.

The overall conclusion reached in the report suggests that while there are grounds for concern relating to the general treatment of *all* detainees, there is little evidence to suggest that this concern can be directly linked to racial stereotyping, perceptions or differential treatment of those from ethnic minorities.

The themes which emerged from the research that could not be linked to issues of race or discrimination were:

- The adequacy of officer training and equipment;
- The suitability of force policies for the management of apparently intoxicated or vulnerable detainees;
- The adequacy of response to sudden and unexplained medical crises.

#### **Police training (Paragraph 91)**

The Strategy for Improving Performance in Race and Diversity 2004-09 was launched in November 2004 and is being taken forward by the Police Race and Diversity Learning and Development Programme Board which reports to, amongst others, the Police Training and Development Board, the Lawrence Steering Group and Ministers. The strategy builds upon recommendations made in Her Majesty's Inspectorate of Constabulary's report *Diversity Matters*, and also responds to two independent reports commissioned to quality assure, and evaluate the effectiveness of, community and race relations training.

The primary aim of the Police Race and Diversity Learning and Development Programme Board is to ensure the effective delivery of race and diversity learning and development in order to improve police performance and meet the needs of diverse communities. The performance of individuals with respect to race and diversity will have consequences for their promotion and benefits and everyone employed by the police service must be assessed against relevant National Occupational Standards relating to race and diversity by 2009. Performance will also be assessed at individual, team, force and service-wide level.

Through the Police Race and Diversity Learning and Development Programme Board, forces will be provided with learning materials and race and diversity learning and development will be contextualised to take into account the needs of the local communities as well as the officer or staff member's rank, grade or role. Learning will be continuously evaluated. Furthermore, the business case for race and diversity learning and development will be made to all police officers and staff.

### **Police recruitment and retention (Paragraph 92)**

Minority ethnic employment targets (recruitment, retention and progression) for the Police Service were introduced in 1999 under the initiative *Dismantling Barriers*, to be achieved by 2009. The targets were designed to bring minority ethnic representation for each force into line with the communities they serve. The Home Secretary's employment targets published in January 2005 show that the Police Service increased its Black and minority ethnic representation figure from 3.8% in 2003 to 4.3% in 2004. Police Officer representation also increased from 2.9% in 2003 to 3.3% in 2004. In the Police Service, 10% of Black and minority ethnic officers with five to ten years' service are at the rank of sergeant or above, compared to 9.5% of White officers. 2.5% of Black and minority ethnic officers with five to fifteen years' service are at the rank of Inspector and above, compared to 2.2% of White officers.

### **Community Cohesion and Race Equality Strategy (Paragraph 94)**

The Government launched its Community Cohesion and Race Equality Strategy in January 2005, and we welcome ECRI's encouragement of this important initiative. The reduction of racial inequalities lies at the heart of the Strategy. The Strategy signals the advent of a comprehensive cross-Government Public Service Agreement target to monitor and reduce racial inequalities between 2005 and 2008, including specific goals to reduce perceptions of discrimination in a wide range of public services, reduce employment inequalities and monitor the progress of minority ethnic communities across major public services, including, education, health, housing and the criminal justice system. The Strategy was developed following an intensive public consultation. It also meets the Government's commitments to action agreed at the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, including the development of a national action plan against racism.

### **Ethnic monitoring (Paragraph 96)**

The categories used for ethnic monitoring are largely based on those used in the censuses carried out very ten years in England and Wales, Scotland and Northern Ireland. The last census took place in 2001 and each of the 3 national censuses including a question on ethnic monitoring and on religious affiliation. Discussions are ongoing with the Office for National Statistics as to the format of the next census in 2011. The Government agrees that the involvement of communities is important in this process.

### **Racist organisations (Paragraph 98)**

The Government has noted ECRI's comments about the exploitation of racism in politics. The Government rejects racist discourse in political life, but this is of course a matter for individual politicians and political parties. We have noted ECRI's recommendation No 7 on this subject, but this represents an unacceptable restriction on the freedom of political association. There is a long-standing tradition of freedom of association and political organisation in the United Kingdom. The Government accepts that this right is not absolute and a number of organisations are proscribed for terrorist activity, but we do not accept that organisations should be banned simply for espousing views that are unpleasant or offensive. It has not been our tradition to ban political parties or organisations simply because they express views that we would all find abhorrent. The Government believes that the answer is to vigorously challenge racist views through the democratic process.

### **Anti-Terrorism legislation and its implementations (paragraphs 101-102)**

The Government has noted the concerns of the Committee. In December 2004 the House of Lords delivered their judgement on the United Kingdoms derogation from Article 5 of the ECHR, which underpins the detention powers.

The House of Lords allowed the appeals by a majority of 8 to 1. They quashed the order designating the derogation under the Human Rights Act, and made a declaration that section 23 of the Anti-terrorism Crime and Security Act 2001 (ATCSA) is incompatible with articles 5 and 14 of the ECHR in so far as it is disproportionate, and permits detention of suspected international terrorists in a way that discriminates on the ground of nationality.

Following the House of Lords judgement, the Home Secretary indicated in his statement on 26 January 2005 that the Government intended to bring forward new legislation which he hoped would be in place before the ATCSA Part 4 powers had to be renewed. The ATCSA, which was adopted in the aftermath of the events of 11 September 2001, is currently in force until March 2005 unless renewed for a further period of up to one year. The Government has now introduced the Prevention of Terrorism Bill to Parliament which seeks to address their Lordships' concerns by introducing a new system of Control Orders. These will offer a more flexible system and will enable us to deal with the threat posed by British citizens as well as the Part 4 detainees and other foreign nationals.

### **The Terrorism Act 2000 (Paragraphs 105 - 107)**

The Government has made it clear on many occasions that the anti-terrorist powers are aimed at terrorists, not at people of any particular race, religion or other section of society.

A police officer can only arrest a person under the Terrorism Act whom he or she reasonably suspects to be a terrorist. That suspicion may be based on months of intensive intelligence and surveillance or on the immediate circumstances presented to an officer, but it is not based on a person's race, colour, language, religion, nationality or ethnic origin.

The Home Office recently published a Draft Manual on stop and search, which stated that "officers must not discriminate against black and minority ethnic communities" when exercising anti-terrorist stop and search powers. This echoes the instructions on these powers given by the police Codes of Practice.

The Government is aware of the serious concerns within the Muslim community about the way policing tactics and operations are seen by some as affecting Muslims disproportionately. The Government, and the police, take these allegations very seriously. We are committed to improving and developing a close partnership with the Muslim communities and are undertaking specific work to reassure them that the counter-terrorism powers are being used proportionately and appropriately.

Arrangements are also being put in place to enable feedback on the impact of policing in communities, including the establishment of the Muslim Safety Forum in London and a pro-active approach to the Muslim media. The overall objective of all these measures is to ensure that counter-terrorism policing is as effective as possible and conducted with the support, trust and confidence of all our communities.

The police are also taking forward a large number of measures to improve the community strand of their counter-terrorist work. They have established a National Community Tensions Team (NCTT) to increase community intelligence, and work is also being carried out to ensure that Special Branches have good Muslim contacts and a real appreciation of the sensitivities of the Muslim community. The Government is encouraging them to spread best practice across all forces. An example of this would be the recent guidance drawn up on operations in religiously sensitive premises.

Specifically in response to concerns about stop and search, the Home Office Stop & Search Action Team has been formed to deal with issues surrounding all forms of stop and search, including those carried out under the Terrorism Act 2000, and is scrutinised by a Community Panel, which ensures the concerns of all communities are taken into consideration.

The previous Home Secretary personally met the Muslim Council of Britain to discuss their concerns on many occasions and the current Home Secretary has continued this process. The Muslim Council of Britain and other Muslim representatives have also met relevant officials in the Home Office and the Police Service about these issues.

#### **Asylum-seekers (Paragraphs 112, 114)**

The Government takes very seriously its duty to present the public with the facts on immigration and asylum as clearly and objectively as possible. We are particularly concerned about negative media portrayal of asylum seekers and refugees, particularly where articles are misleading, inaccurate, or misrepresentative. Reporting of this nature can often reinforce mythologies that are built around asylum seekers and refugees. These mythologies and inaccuracies, if unchallenged, can be exploited by far-right extremists to encourage suspicion, distrust or (at the extreme level) hatred towards asylum seekers and refugees. This in turn can lead to tensions in some communities, particularly where dispersal has seen the introduction of new groups of asylum seekers and refugees to an area.

A sub-group of the National Refugee Integration Forum has been set up to look at the issue of Positive Images of asylum seekers and refugees. The Forum and its sub-groups are a partnership of agencies that work together to take forward delivery of the National Refugee Integration Strategy. The Positive Images sub-group was formed to look at how to present more positive images of refugees and asylum seekers to the wider public. Membership of the sub-group is drawn from central and local government, the voluntary and private sectors, researchers, refugee media groups and refugees themselves; many members have specific experience of working with a variety of media. The sub-group is looking to develop a partnership approach that actively engages refugees and host communities, Government, local government and the media.

The Government is on record in the White Paper *Secure Borders, Safe Haven* (Cm 5387) as stating that diversity with social cohesion is a crucial element of our immigration policy, as is our commitment to our international obligations in respect of those in genuine need of protection.

The Immigration and Nationality Directorate publishes an "Asylum Fact Sheet" ([http://www.ind.homeoffice.gov.uk/ind/en/home/applying/asylum\\_applications/asylum\\_fact\\_sheet.html](http://www.ind.homeoffice.gov.uk/ind/en/home/applying/asylum_applications/asylum_fact_sheet.html)) and sends copies as appropriate to members of the public in response to queries. The fact sheet emphasises the Government's commitment to ensuring that this country adheres to its obligations under the 1951 Refugee Convention and the European Convention on Human Rights, and that those who are



fleeing persecution are given the protection they need, but equally that the Government is determined that those who attempt to abuse this country's immigration and asylum system are dealt with quickly and removed.

### *The UK Asylum System*

The UK is a signatory to the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol and adheres to the principles enshrined therein. Each claim for asylum is considered on its own individual merits by caseworkers who have received appropriate training. The UK grants asylum if it is satisfied that a claimant has a well-founded fear of persecution. If it is not appropriate to grant asylum under the Convention, the UK considers whether to grant limited leave on the basis of the ECHR or for exceptional humanitarian reasons. Unless an asylum or human rights claim is certified as "clearly unfounded", each claimant rejected at initial decision has an in-country right of appeal. A failed asylum seeker will only be removed from the UK if to do so would not breach our obligations under the ECHR.

### *Non-suspensive appeals*

Section 94 (2) of the Nationality, Immigration and Asylum Act 2002 allows asylum and human rights claims to be designated as "clearly unfounded" on a case by case basis. Section 94 (3) requires the Secretary of State to certify an asylum or human rights claim made by a person entitled to reside in a designated safe country as clearly unfounded unless he is satisfied that the claim is not clearly unfounded. The power to designate a country as safe for the purposes of non-suspensive appeal is set out in section 94 (4). A country will only be designated as safe if there is in general no risk of persecution in that country and if removal to that country would not breach the UK's obligations under the ECHR.

In practice a decision to certify will only be made if a caseworker and senior caseworker are satisfied that the claim is clearly unfounded, following detailed examination of the individual claim. Asylum and human rights claims that are certified as clearly unfounded have no in-country right of appeal. In all such cases, however, it is open to the applicant to seek a Judicial Review of the decision to certify his or her claim. In such circumstances, the claimant will not be removed from the UK before the outcome of the Judicial Review is known. If the claimant succeeds at Judicial Review, then he or she will not be removed from the UK. The UK periodically reviews the list of countries that it regards as generally safe, and the list is subject to approval by Parliament.

### *Removal to "safe third countries"/non-refoulement*

If removal is to be to a country listed at Part 2 of Schedule 3 to the 2004 Act there will be no scope to challenge removal on Refugee Convention grounds and the countries are also deemed safe only in the sense they would not remove an asylum seeker in contravention of Article 3 ECHR. These provisions recognise the particular status of those European countries which are part of the mechanism for determining responsibility for asylum seekers provided by the Dublin arrangements and the supporting Eurodac database of fingerprint images. The Dublin arrangements provide that a Member State may examine a claim for asylum even if this not its responsibility under the terms of the arrangements. We would therefore not be obliged to remove a particular person to a particular country in every case.

In the very unlikely event that a state party to the Dublin arrangements deteriorated to a point where it no longer generally met the tests set out in Part 2, we could bring forward new primary legislation to recognise that. This would also apply should any Agreements between the Community and other States associating them with the Dublin arrangements be terminated or renounced.

### *Quality of decision-making*

The Government has already acted with a range of measures to sustain and improve the quality of initial decisions and we are determined to maintain the momentum. All non-suspensive appeals continue to be subjected to a 'second pair of eyes', as all decisions are checked by a senior caseworker. We already have a comprehensive quality assurance framework to sample the quality of asylum decisions using both internal and external assessors. We are working closely with UNHCR to validate the assessment criteria and marking guidance. In parallel with these internal measures to improve quality, we have enhanced the external assessment of decisions. UNHCR have been fully involved in helping us to further improve quality by assessing 50 initial asylum decisions a month and looking more widely at all aspects of the initial decision-making process, including the recruitment and training of caseworkers. UNHCR have made a number of useful suggestions which are being considered, including the likely benefits of accreditation of caseworkers.

We have reviewed the initial training package for asylum caseworkers and continue to provide bespoke training seminars to update caseworker skills. Recent seminars have included a 'decision making workshop' dealing with credibility assessment and presentations from the Medical Foundation addressing skills necessary to deal with cases involving torture or rape. UNHCR, Treasury Solicitor and the Medical Foundation already participate in our training, but we want a greater external input and are currently actively discussing this with them and other external stakeholders. We are also committed to external validation of our training programmes.

A comprehensive computerised Knowledge Base means that caseworkers have immediate access to detailed country information and other guidance. Work is underway to provide caseworkers access to a broad range of source materials and also to the Refworld database.

We have introduced an independent Country Information Advisory Panel to ensure that the country information is as accurate, objective and up to date as possible. Through improved recruitment measures and minimum entry qualifications, we are ensuring that key skills and abilities required in the Executive Officer Asylum Caseworker role are identified and assured.

We continue to monitor cases throughout the process and to assess appeal outcomes to improve our understanding of why allowed appeal rates for some countries are high. The part of paragraph 115 that deals with section 10 of the Asylum and Immigration (Treatment of Claimants, Etc.) Act 2004 does not differentiate between those seeking asylum and those whose claims have failed.

Section 10 only relates to individuals whose application for asylum has failed (including any appeals). These are individuals who have no basis of stay in the UK and are expected to return home. If they are temporarily unable to do so - for instance due to there being no viable route of return - they can apply for support from NASS under section 4 of the Immigration and Asylum Act 1999 - "section 4 support".

Section 10 does not relate to individuals who are still awaiting a decision on their asylum claim. These individuals fall into a different category and receive a different type of NASS support, under section 95 of the Immigration and Asylum Act 1999.

Section 10 means that section 4 support can be made conditional on participation in activities that benefit the community. The principle behind this is that of "something for something". Failed asylum-seekers have no basis of stay in the UK but receive state support, and the Government believes that it is right that they give something back to their communities in return. The new measures will help to avoid public perceptions that failed asylum-seekers receive "something for nothing", and will contribute to community cohesion. The activities will give individuals a chance to get involved in the community, and as far as possible will also be tailored to their individual needs and circumstances.

The Government does not believe that section 10 contravenes Articles 3 and 4 of the ECHR. The Government contends that there is a clear justification for expecting this group to give something back to their communities, and that it is neither unjust nor discriminatory to expect individuals receiving section 4 support to give something back in return.

#### *Support for asylum-seekers (Paragraph 116)*

Under section 55, which came into effect on 8 January 2003, asylum seekers have to apply for asylum as soon as reasonably practicable in order to qualify for support from the National Asylum Support Service (accommodation and/or subsistence only). This is consistent with Article 16(2) of EU Council Directive 2003/9/EC, which provides that Member States may refuse conditions in cases where an asylum seeker has failed to demonstrate that the asylum claim was made as soon as reasonably practicable after arrival in that Member State.

The Government has taken some tough decisions to restore credibility to the asylum system and ensure that the UK is not seen as a soft touch. Section 55 is one of a wider package of measures aimed at reforming and tackling abuse of the asylum system. The legislation is designed to send a clear message to those who are simply economic migrants that they will not be supported at public expense. It is reasonable to expect that desperate people fleeing for their lives will claim asylum as soon as they can and we will continue to support those who do so.

There have always been a number of important safeguards built into section 55 to ensure that those who are vulnerable are protected. Families with children and those who can show they would suffer treatment contrary to the ECHR receive support even if they did not make their asylum claim as soon as reasonably practicable. Asylum seekers with additional care needs and unaccompanied asylum seeking children are supported by local authorities in the same way as before the introduction of the legislation.

In addition, it has always been open to any applicant who has been refused support under section 55 to ask that their case be reconsidered should their circumstances change, or if they have additional information they wish to be taken into account.

We have kept the operation of section 55 under review since it was first introduced and we will continue to do so, working with stakeholders. The full implications of the House of Lords' judgment - which concerns the issue of when it is necessary to provide support to an asylum seeker who has not claimed asylum as soon as

reasonably practicable in order to prevent an ECHR breach - will be considered and the options for the future will be examined when the judgment is handed down.

Section 9 is being introduced to end a situation where we continue providing money and housing to families that have been through the asylum process and whose asylum claim has been rejected; to tackle the incentive that exists to not co-operate; and to encourage these families, who have no future in the United Kingdom, to return home voluntarily and to increase co-operation with removal procedures, e.g. re-documentation and attendance for departure.

This measure is not aimed at making families destitute. It is in the best interests of social cohesion, for those who have permission to remain in the UK and for families with no future in the UK, if such families leave the UK and begin re-building their lives with dignity and support.

The Section 9 process involves the family fully, throughout. No family's support will be withdrawn without their being entirely aware of the reasons. Provided they co-operate (for example by attending interviews and responding positively to requests for information) support will not be withdrawn. Support will also not be withdrawn if this would result in a breach of the ECHR.

Families may appeal the decision to withdraw support. An appeal against the withdrawal of support does not affect a family's immigration status or the need for them to leave the UK.

We aim to provide education in accommodation centres which will mirror as closely as possible the education provided in mainstream schools, but with the ability to focus on the particular needs of the children such as English language teaching. The Office for Standards in Education (OFSTED) will inspect and report on the education provision within accommodation centres in England (separate arrangements will be made for Wales, Scotland and Northern Ireland) to ensure that the education in accommodation centres is of comparable quality to that in mainstream schools. We are providing education on site in order to reduce pressure on local services in the areas of the centres.

Importantly, we anticipate children spending only a few months in an accommodation centre. The Nationality, Immigration and Asylum Act 2002 places a six month time limit on the period applicants may be required to remain in a centre, extendable to a maximum of nine months in certain, limited, circumstances. It is our firm intention to process claims within that timescale but if, after that time, their cases have not been concluded, applicants will be moved out of the centres into a dispersal area where their children will be able to access mainstream education. The education they will have received in an accommodation centre will ensure that those children, along with those whose parents are granted refugee status, or otherwise given permission to remain in the UK, will be well placed to make the transition to mainstream schools. Those who have no basis of stay and who will be leaving the UK will nevertheless have received a worthwhile education which will assist them in their country of origin.

#### *Detention of asylum-seekers (paragraph 118)*

Detention is used sparingly and for the shortest period necessary. The presumption is in favour of temporary admission or release without the need to detain at all.

### *Use of prisons*

Prisons are designated as places where persons may be detained in accordance with Immigration Act powers. Individuals who have been assessed as posing a risk to the safety of others may therefore be moved to prison where they can be better managed. Such decisions are not taken lightly and each case is carefully considered before any such decision is made. Thereafter senior Immigration Service officials meet regularly to consider all cases to decide whether an individual may safely be returned to the detention estate.

### *Judicial oversight*

We are satisfied that this is provided by access to judicial review and habeas corpus, and that these processes provide sufficient means by which the lawfulness of detention may be challenged. Moreover, detainees can apply for bail and on as many occasions as they wish.

### *Detention of Families*

Families are detained under the same criteria as individuals, i.e. whilst identity and basis of claim is established, because of the risk of absconding, as part of a fast-track process or to effect removal. Consequently, not all families in detention will be held pending removal.

*Each case is considered on its merits and the presumption will still be in favour of granting temporary admission or release wherever possible. Detention is used only where necessary and that this is especially true for families with children.*

Detention of families kept to the minimum period, subject to frequent and rigorous review, and very few families are detained for more than just a few days. In those cases where detention lasts longer (e.g. where detainees attempt to frustrate the removal process) detention can be prolonged. In those circumstances, arrangements are in place for the rigorous and frequent review of family detention including ministerial oversight of the detention of all children beyond 28 days. Families are accommodated in dedicated family rooms within a removal centre so as to ensure that family members are not separated and, so far as practicable within the constraints of detention, are able to maintain family life.

*Minors are detained only in two limited circumstances: first, as part of a family group whose detention is considered appropriate; second, when unaccompanied, whilst alternative care arrangements are made and normally just overnight. The criteria applied to the detention of families with children are in line with government policy on the use of detention. As with any case, there is a presumption in favour of granting temporary admission or temporary release to families with children wherever possible, but there will be occasions when temporary release is not considered appropriate. In these cases detention is necessary in the interests of maintaining effective immigration control. Cases involving families with children in detention are dealt with as expeditiously as possible and are subject to rigorous internal review to ensure that the period of detention is kept to a minimum.*

*Unaccompanied children are only ever detained in the most exceptional circumstances and then only overnight whilst alternative arrangements are made for their care. The Immigration and Nationality Directorate, together with local authorities, has developed an Age Assessment Protocol, which sets out a consistent approach to age assessment.*

## **Gypsies and Travellers (paragraphs 121, 123, 130-131, 133-134)**

Racial discrimination in the provision of goods, services and premises is unlawful throughout the United Kingdom. The Government encourages individuals who encounter such discrimination to take action under the law and to report the matter to the relevant equality commissions.

The Government's Community Cohesion and Race Equality Strategy acknowledges that Gypsies and Travellers have some of the worst outcomes of any ethnic group in key areas of life. The purpose of that Strategy is to bring about real improvements in those life outcomes for all ethnic groups, including Gypsies and Travellers. The Commission for Racial Equality is conducting a study of how local authorities deal with Gypsies and Travellers, and the Government is awaiting the outcome with interest.

### *England and Wales*

The Office of the Deputy Prime Minister is taking steps to mainstream Gypsy and Traveller accommodation provision, through both its housing and planning policies, and to put in place robust processes to ensure the availability of sites.

Under the Housing Act 2004, each local authority will now be required to review the accommodation needs of "gypsies and travellers" within its review of overall housing need, and to develop strategies to meet that need. Accurate information on the levels of need for site and other types of provision will in future be provided via Local Housing Needs Assessment. This is the same way that need for other types of housing, which is also subject to change over time, is assessed.

The housing needs assessment process will provide detailed information, both on the level of need for public and private sites, and the level and type of need for bricks and mortar housing, including social housing. This will provide a much greater level of understanding about the specific needs of Gypsies and Travellers in housing.

Recent changes to the planning system will also ensure a systematic and comprehensive approach is taken to the provision of land for sites, with powers being put in place to direct local authorities to allocate land in plans if necessary. A revised planning circular dealing with planning for Gypsy and Traveller sites is currently being consulted on, which aims to overcome some of the past problems associated with obtaining planning permission for sites.

The results of these new arrangements will feed into the process by which public funding is subsequently directed by the appropriate Regional Housing Board for the provision of social housing within that region. From 2006, public funding for Gypsy and Traveller accommodation, whether permanent residential sites, transit sites or bricks and mortar housing, will be provided from within the same fund as for social housing generally.

The Office of the Deputy Prime Minister is already looking at the tenure issues associated with Gypsy and Traveller sites as part of a wide-ranging review. Steps have already been taken by way of the Housing Act 2004 to bring the security of tenure position for local authority site residents in line with those on private Gypsy and Traveller sites in respect of the eviction order process.

The Office of the Deputy Prime Minister is taking steps to address the lack of ethnic data that is available on the Gypsy and Traveller population. From 2005, the annual Survey of English Housing, which is carried out on behalf of the Government by the

National Centre for Social Research, will include data on the Gypsy and Traveller population. The information provided by the Survey will go some way to improving our knowledge of Gypsies and Travellers who reside in bricks and mortar accommodation.

Further, the 'Continuous Population Survey' is due to commence in 2007. This survey will combine several surveys which are currently conducted separately, including the Survey of English Housing. The overall sample will be a very substantial 200,000 households in England, which will be a better source of data on ethnic minorities than any of the existing surveys that take place.

Discussions are on-going with the Office of National Statistics over the possibility of including a specific Gypsy and Traveller category in the 2011 Census.

The Government will be producing good quality materials to encourage all schools to integrate the teaching of the history and culture of Roma/Gypsies and Travellers in the school curriculum. The Department for Education and Skills has a national anti bullying strategy which includes a strong anti-racist element which will benefit all minority ethnic groups, including pupils of Gypsy and Roma heritage.

We are working closely with a sample of Local Education Authorities to hold ascription seminars to encourage Roma/Gypsy and Traveller families to identify their children as such on the Pupil Level Annual School Census (PLASC). We hope to produce a good practice guide.

#### *Scotland*

The Scottish Executive recognises Gypsies/Travellers in Scotland as a distinct group who have specific requirements and who may require protection from discrimination and abuse. The Executive has specifically considered the needs of this group in its Race Equality Scheme (<http://www.scotland.gov.uk/library5/society/wtre-00.asp>) and has encouraged other public authorities to take the same approach, both in the Executive's Race Equality Scheme itself and in its published responses to the 2001 report of the Scottish Parliament's Equal Opportunities Committee.

The Executive is committed to an ongoing process of consultation and policy development with Gypsies/Travellers and those who provide them with public services.

In 2002 the Scottish Executive published 'Good Practice Guidance - Consultation with Equalities Groups'. This document provides guidance on how to ensure that 'equalities groups' - including Gypsies/Travellers - are not excluded from public consultation exercises.

The Scottish Executive states in *Delivering for Scotland's Gypsies/Travellers* its belief that all local authorities should give serious consideration to appointing a Gypsy/Traveller liaison officer. The Executive also states its expectation that all local authorities, with local police, should prepare strategies on working with Gypsies/Travellers. *Delivering for Scotland's Gypsies/Travellers* also states that "All public bodies, including local authorities, are committed by their Race Equality Schemes to ensuring that their staff are made fully aware of the needs of all ethnic minority communities, including those of Gypsies/Travellers, when assessing existing policies and developing new ones."

As part of the process of preparing for the 2011 Census, the Scottish Executive is working on new or revised ethnicity classifications to be tested in 2006.

The Scottish Executive has recently commissioned a consortium of researchers to carry out initial research which will inform the planned consultation on ethnic identity classification. The study has been designed to be as inclusive as possible and will seek to include the views of respondents from both majority and minority ethnic communities, including Gypsies/Travellers. It is expected to report by the end of March 2005.

In Scotland, local authorities are expected to consider the accommodation requirements of Gypsies/Travellers as part of their Local Housing Strategy. Communities Scotland Regulation and Inspection Division has also completed a thematic study looking at the planning and provision of services for Gypsies/Travellers by local authorities.'

Accommodation for Gypsies/Travellers is addressed in planning policy in Scottish Planning Policy (SPP) 3 : Planning for Housing, published February 2003 i.e.-

*"26. The needs of Gypsies/Travellers for appropriate accommodation will be set out in local housing strategies (see paragraph 72). Planning authorities should continue to play a role through development plans, by identifying suitable locations for Gypsies/Travellers' sites where need is demonstrated, and setting out policies for dealing with applications for small privately-owned sites."*

The National Health Service in Scotland's pre-recruitment programmes are open to any person who is currently out of work (not necessarily benefit claimants). The National Health Service Scotland (NHS Scotland) will be working over the coming months with Gypsies/Travellers to establish if there is a need to provide extra support to enable this group to participate and access opportunities within the National Health Service. NHS Scotland will shortly be launching a national campaign aimed at staff to raise awareness of equality & diversity, tackle discrimination and challenge perceptions. The majority of National Health Service employers now offer anonymous application forms to help tackle discrimination at point of short listing, and all follow equal opportunities guidance. With regard to the provision of health services, a number of measures, such as hand-held records, have been developed by the National Resource Centre for Ethnic Minority Health to address any discrimination faced by the Roma/Gypsy and Traveller population.

The Scottish Executive engages in on-going dialogue with the Scottish Further Education Funding Council on all aspects of the SFEFC's work to promote social inclusion within the further education sector. It is recognised that Gypsies/Travellers are among those who have needs that must be considered in encouraging participation in further education and gaining access to appropriate qualifications which can in turn facilitate access to employment.

Meeting the specific needs of Gypsies/Travellers is being actively considered by those in the Scottish Health Service charged with identifying the needs of Scotland's minority ethnic communities according to the requirements of its Race Equality Scheme.

The National Resource Centre for Ethnic Minority Health, in collaboration with the Scottish Executive Health Department, is integrating and facilitating the requirement for National Health Service Boards and Trusts to be more sensitive to the needs and discrimination faced by Gypsies/Travellers.

A national Gypsy/Traveller Roundtable Network was set up by the National Resource Centre for Ethnic Minorities Health in January 2003 to identify priorities and develop an action plan around four key areas: extension of good practice models nationally;



community-led national health needs assessment; production of health promotion materials in accessible formats; employment of a community researcher to develop the action-based research.

The Scottish Executive stated in its June 2004 publication 'Delivering for Scotland's Gypsies/Travellers' that it expects local authorities and police forces to prepare local strategies on working with Gypsies/Travellers.

Her Majesty's Inspectorate of Constabulary (HMIC) Report 'Pride and Prejudice: a Review of Police Race Relations in Scotland' (published June 2003) confirms that "All of Scotland's police forces have updated and revised their policies towards Gypsies and Travellers, with stronger links and specified police liaison officers being established and deployed. Gypsies/Travellers are a key element in the diversity training which all police staff are receiving.

#### *Northern Ireland*

As stated elsewhere in this Comment, a Race Equality Strategy for Northern Ireland will be published early in 2005. The Race Equality Strategy will cover the full range of policy issues that impact on the daily lives of Irish Travellers. It will provide a framework for Government Departments and others to tackle the root causes of the racial inequalities experienced by Irish Travellers in Northern Ireland. The focus will be very firmly on achieving concrete race equality outcomes, and robust monitoring and evaluation criteria will be built into the implementation action plan for the strategy to be developed in conjunction with the Northern Ireland Race Forum which includes representatives of Irish Travellers.

In 2001, the Northern Ireland Department for Regional Development published an overarching strategic framework for the future development of Northern Ireland (The Regional Development Strategy 2025). The Strategy provides and contains Strategic Planning Guidelines which are not intended to be detailed operational policy statements, but which aim to provide long term policy directions, from a strategic spatial perspective.

This Strategic Plan contains Guideline (SPG)-HOU6 - 'To encourage the development of balanced local communities.' Additionally SPG-HOU 6.2 states; "To meet the distinctive needs of the travellers through the provision of a range of accommodation options. These may include group or shared family accommodation, serviced sites or other suitable forms with work-space provision using established criteria to facilitate the site selection process."

**HOME OFFICE**  
**UNITED KINGDOM**  
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