



September 2009

## **MiNet response to The Equality Act 2010 - framework for services and public functions guidance.**

### **MiNet**

MiNet (Minority Network) is London's only Black, Asian and Minority Ethnic (BAME) regional Third Sector infrastructure network set up to promote and support the effective engagement, contribution and influence of the Third Sector as partners in regional policy development and implementation for the benefit of the diverse communities across London. As a network whose core work involves the strategic coordination, support and advocacy of other pan London and sub-regional BAME networks, MiNet welcomes this opportunity for the interests and concerns of London's BAME Third Sector to be used to inform the development of guidance for the Single Equality Bill.

### **Methodology for this Response**

All research carried out and recommendations made by MiNet is evidence based in the sense that everything we do is informed by the views and real life experiences of BAME communities, and the organisations that are set up to serve them. MiNet is a network of over 500 BAME organisations, including both frontline service delivery and infrastructure bodies. It is through these established networks that MiNet collects evidence and consequently takes forward this evidence to inform London's key stakeholders. This consultation has been informed by MiNet's standing Advisory Group who feed in their knowledge and expertise to ensure the work of MiNet is an accurate portrayal of the BAME Third Sector. Therefore MiNet would like to thank its Advisory Group for its contribution and also the contribution made by Irish Travellers Movement in Britain.

### **Versions of Guidance**

Evidently it is difficult to comment on the version at present. However, it would be worthwhile to consider the inclusion of or take good practice from pre-existing work which has clarity and has received positive feedback. The EHRC report “Gypsies and Travellers: Simple Solutions for Living Together”, is an example of this which is an easy to read version and is a particularly appropriate example of format for the Gypsy, Roma and Traveller communities.

## Content:

### 1. Key Ideas

Generally there is the potential for the guidance to be comprehensive with the areas presently described. Additionally, it is suggested that it would be advantageous to ensure that the guidance includes, not only information on what constitutes unlawful discrimination, but also examples of how this can be avoided and the steps that could be required to prevent this. This should be offered not only through quick examples but also more detailed case studies of best practice. Further the language used in the creation of guidance needs to learn from past mistakes which resulted in paraphernalia relating to the Human Rights Act being too distant and inaccessible to third sector employees. To achieve a document which is clear and accessible there needs to be continued involvement of the third sector, especially the BAME third sector, throughout the various stages in which the guidance is developed.

### Recruiting and retaining people who have the right skills

The issue of recruiting and retaining groups who are most marginalised is of great importance, firstly in identifying the groups and also offering sufficient support. For example, research has shown that Gypsy, Roma and Traveller communities experience some of the most extreme cases of employment discrimination. In recent research by Fordham's it was indicated that:

In terms of employment, a quarter thought they had been denied work due to being a Gypsy or Traveller. A common way this happened was when participants had given their address to prospective employers: *‘I found when I left "caravan site" out of the address I got a job as Assistant Manager’*; *‘My daughter feels our address has let us down, she regularly gets rejected for job interviews by supermarkets, local hotels and companies’*.

Some said they had not been denied work, but felt their poor literacy and numerical skills made applying for work futile: *'You need to get certificates and fill in forms for everything but most Travellers don't read or write'; 'My poor education is holding me back and makes me frightened to do settled person work'*

Many stressed that they do not reveal their identity when seeking employment: *'I never say I am from the travelling community when looking or doing some work'; 'I have done a lot of settled people's work over my time. I have not been denied work because I have hidden my identity'*. [Fordhams, (May 2008); London GTANA]

It may be useful for bodies to have clarification on how as an employer they can serve their obligation to ensure policies and functions which affect staff, or prospective staff, are fair and equal regardless of people's background. How this is managed is of crucial concern and emphasis on the monitoring of such information is of particular interest. Within the workplace guidance could increase awareness about the requirement for built-in confidential mechanisms for staff members to raise issues (such as confidential staff surveys) and clear channels for prospective staff to report what they believe to be subtle or severe discrimination. Research carried out by ROTA has highlighted that it is often the subtle forms of discrimination which occur more commonly and can be most damaging. How this is identified and thereafter challenged needs to be dynamic perhaps making use of alternative forms of resolution and this could be integrated within guidance where best practice exists.

## What are public functions?

It is clearly useful to have an idea on what constitutes a public function and the nature through which this may change as new organisations are created. At present what constitutes a public function is yet to be defined (with discussion ongoing about the insufficient use of 'public function' test of the Human Rights Act 1998). If, as ROTA has proposed, the Equality Bill uses the definition of the Joint Committee on Human Rights (29<sup>th</sup> report 2008) constituting a public authority as covering all bodies (including private and third sector organisations) that provide public services, then any guidance should mirror this in fully transparent language. Additionally, one member has suggested that it may be useful to have an idea which department and in what context cases of discrimination disproportionately take place. Once again information on how this has been prevented may be beneficial.



## Direct and in-direct discrimination

A definition of what constitutes racial discrimination will be useful and also an explanation how this has occurred in its various dimensions along a continuum: subtle to severe.

## 2. What Staff Need to Do?

Within this section it was felt that there needs to be an emphasis on the knowledge of staff within the service area they are working as often groups who have different needs are not recognised and may therefore suffer in-direct discrimination as a result. There is evidence to suggest that the needs of certain ethnic groups go unnoticed because their ethnicity is not recognised, which includes, for example, Armenians and Latin Americans, the former often being categorised as Russian or Iranian and the latter as Spanish or other, which means they do not get access to the services they require, therefore raising questions about inclusion.

Race on the Agenda (ROTA), is the accountable body for MiNet and is one of Britain's leading social policy think-tanks focusing on issues that affect BAME communities. Originally set up in 1984, ROTA aims to increase the capacity of BAME organisations and strengthen the voice of BAME communities through increased civic engagement and participation in society.

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