



Policy Briefing (Issue 22) **Race on the Agenda**

The Single Equality Bill: What it means for the BAME Third Sector

Introduction

In February 2007, the government published the findings of its Equalities Review providing data on persistent inequalities faced by many groups and individuals in Britain. It has been estimated that if we continue at the current rate of reducing inequalities:

- The gender pay gap will not be closed until 2085;
- The gap between the employment rates of white and Black, Asian and Minority Ethnic (BAME) communities¹ will not be closed until 2105;
- The employment rates of people over 50 will not be equal with those of working age who are under 50 in this lifetime

In addition, we will probably never see an end to inequality:

- in the employment rates of disabled people and
- the number and level of qualifications obtained by young people from BAME communities compared with those from White communities².

In a bid to improve performance on this issue, the Government promised to simplify and modernise discrimination law by introducing a Single Equality Act within this term. This policy briefing will consider its impact on the BAME Third Sector.

The Bill has the potential to strengthen the work of the BAME Third Sector. However, not much of this will be realised, at least in the short term, as much of it is formed of ideas rather than practical consequences. While the Bill draws together all six equality strands, it offers developments in some areas but not others. Some duties in place to address age or gender discrimination will not necessarily impact the BAME Third Sector or the communities it serves. What we should be aware of is the potential that the Bill has to recognise the need for specialist responses to discrimination and the fact that in both the private and public sector there are still huge inequality gaps that need to be addressed. As long as these still exist there is a need for the BAME Third Sector to support BAME communities on the ground and plug the gaps that legislation is not currently able to fill.

Strengthening the work of the BAME Third Sector

While there have been concerns that a Single Equality Bill will diminish the significance of race and agencies' duties to ensure equality on those grounds, the Equality Bill does serve

in a number of ways to strengthen the work of the BAME Third Sector. Furthermore, it has the potential, in some areas, to reduce discrimination faced by the BAME communities.

Recognising the need for representation:

On more than one occasion the Single Equality Bill recognises the needs to address discrimination through representation. Firstly, it notes the need for the workforce of statutory agencies to be representative and requires such agencies to report on the percentage of BAME individuals that they employ in their various departments. Secondly, it acknowledges the need for greater representation of BAME MPs in the House of Commons; it states that it will pursue non-legislative means to achieving this. While it is not clear how this will be achieved, it has the potential to increase awareness of BAME issues at statutory sector level; which in turn could influence who the BAME Third Sector will be able to lobby to represent their views at government level. **ROTA** will monitor the impact of these requirements on representation of BAME concerns at policy level.

Impact on the Private Sector:

The Single Equality Bill enables the public sector to use their spending power to deliver greater transparency and improve equality performance in the private sector. While there is already some legislation that allows for the promotion of race equality through procurement, this bill aims to strengthen that by using greater transparency. The Bill states that policymakers will be looking at both legislative and non-legislative means of maximising these proposals and **ROTA** will follow, and encourage other BAME Third Sector organisations, to be aware of how this is played out. As we enter a commissioning environment it is crucial that those commissioned to carry out work deliver on equality. The positive duty included in the Race Relations (Amendment) Act could now be extended to private and Third Sector organisations either through legislation or non-statutory guidance.

Furthermore, the bill highlights that there are stark inequalities in specific industries such as 'in the construction industry, 2.5% of the workers are from BAME groups, whereas the average workforce as a whole is 8%. In order to address this, the Equality and Human Rights Commission will 'launch a series of enquiries into the inequality in the constructions sectors (and financial and professional sectors) from 2008. **ROTA** will monitor the findings of these enquiries to assess whether they lead to any duties being placed on private sector industries. For those BAME Third Sector organisations supporting people in employment such findings could be significant.

Addressing the impact of services:

The Single Equality Bill clearly states in practice "the duty will require public bodies to consider how their policies, programmes and services affect different disadvantaged groups in the community". This is significant for the BAME Third Sector given the disproportionate negative impact that some policies, programmes and services have on the BAME groups that they serve. Under this new duty there will need to be a consideration on the potential detrimental impact that some services may have on BAME communities as well as to assess whether they meet the needs of BAME communities.

Multiple Discrimination:

The Single Equality Bill will "allow discrimination claims to be brought on combined multiple grounds'. The fact that this Bill recognises that discrimination cannot be thought of in silos and therefore can impact people on various grounds simultaneously, such as a woman who is black, is significant. For those BAME Third Sector organisations that provide services to address multiple discrimination (such as domestic violence services for BAME women) recognising such complexities is important and strengthens the case for specialist knowledge and experience in these areas. The Bill admits that they are yet unaware of what legislation could address such discrimination. Therefore, it is important that those working with multiple discrimination and have the knowledge and expertise

should inform any legislation that may be developed on the back of this. While there is no idea yet as to what legislation they could put in place to address this issue in practice, it removes the oversimplification of discrimination.

Shortcomings of the Bill – A BAME Perspective

This briefing focuses on four main areas where the Equality Bill could potentially have a negative impact on the work carried out by the BAME Third Sector and the communities it serves. As it is proposed the Bill:

- adopts an oversimplified approach to the issues around BAME employment barriers
- is not proposing short listing of BAME candidates
- is not placing clear duties or incentives around positive action
- is failing to identify key goods and services currently affected by discrimination such as that in the police force.

Oversimplified Approach to Employment:

The Equality Bill seeks to address employment gaps by requiring public bodies to report on 'important equality areas such as...ethnic minority employment'; this is reporting with the aim of learning from best practice examples, identify authorities which are 'lagging behind' and to make comparisons between authorities. However, the reports will be based on statistics which chart the percentage of BAME staff within government department and authorities. What such statistics will fail to identify is the level of seniority at which BAME staff are employed or the pay gap that may exist between BAME staff and their peers. Furthermore, this fails to draw out differences between BAME groups. In short, it completely oversimplifies the complex discrepancies that have an impact on BAME employment. It is not sufficient to ask how many BAME staff members does a department have; one needs to know at what level of responsibility and influence these staff are at as well. For those BAME groups working on employment issues this will not go far enough to necessarily support their work.

No Shortlists for BAME parliamentary candidates:

The Equality Bill states that they 'will also extend the permission to use women-only shortlists in selecting parliamentary candidates to 2030'. However, they 'will not legislate to allow ethnic minority shortlists at this stage' and instead will 'pursue non-legislative measures to increase the number of ethnic minority elected representative in both Parliament and local councils'.

It is not clear why this decision has been made apart from the statement that there is not consensus that a shortlist would be the best way forward. The statistics offered in the Bill state that 19% of MP's are women while BAME individuals only represent 2.3% of all MP's. It is evident from this that concrete action is needed to address this disproportionality. We are awaiting confirmation on what non-legislative action will be taken. Therefore, as it stands there will still be a severe lack of MP's representing the needs of the BAME Third Sector at policy level which could affect the potential that there is to get BAME issues at the political table.

No clear duty on Positive Action:

The Bill states that in order 'to end inequality you have to take positive action to redress disadvantage as well as tackle discrimination'. Therefore, 'the Bill will extend positive action so that employers can take under-representation into account when selecting between two equally qualified candidates'. What this actually does is to allow employers to use positive action but there is 'no strict rule that this must be done in all cases'. What the

Bill fails to take into account of is the culture and priorities of organisations that will fail to enable positive action to be realised. **ROTA** will wait to see what guidance the Equality and Human Rights Commission publishes with regards to new positive action measures.

Failing to identify key goods and services currently discriminating against BAME groups:

The Bill neglects to address the negative impact that some goods and services supplied by public bodies has on BAME communities. The Bill states that ‘we have a public policy objective to achieve a fair society in which people have the opportunity to succeed...such as reducing the gap between people from ethnic minority communities and the rest of the population...public bodies...have an important role in helping to achieve...targets because of the services they provide’.

Given the above statement it is concerning that there is attention paid to the discriminatory impact of certain practices on BAME communities. A clear example of this is the services the police offer to BAME communities. The use of stop and search powers to address both terrorism and gang crime see the disproportionate searching of certain BAME groups who are stereotypically related to those crimes. There is complete failure in the Bill to address the fact that asides from gaps in meeting the needs of service users, public bodies actually have the potential to compound disadvantage through unfair treatment. Until the disproportionate impact that the criminal justice system has on BAME communities is addressed, then the impact that changes in areas such as employment will have will be limited. This would require a more holistic approach to equality that this Bill fails to provide.

The BAME Third Sector could use the section of the Bill that requires all ‘public bodies to consider how their policies, programmes and services affect different disadvantaged groups in the community’ to offer specific examples of discriminatory outcomes for BAME groups. Be that in regards to education, health or criminal justice services, for example; at present policies in all of these areas impact negatively on BAME communities and it is the Third Sector who often pick up the tab. Therefore, we should lobby in future on this duty as grounds for why such negative impacts of policy need to be addressed.

ROTA will continue to monitor the impact of the Single Equality Bill on the BAME Third Sector and the communities that it serves. We will also follow any legislation put in place to realise any proposals set out in the Bill, due to the lack of clarity in many areas as it stands. **ROTA** hopes to see that this Bill will strengthen and develop how multiple discrimination is experienced by BAME communities and the work that is carried out by the Third Sector to address such racism.

For any questions regarding this briefing please contact Dr Theo Gavrielides on theo@rota.org.uk or 020 7729 1310

ⁱ **ROTA** uses the term BAME to refer to all groups who are discriminated against on the grounds of their race, culture, colour or nationality.

ⁱⁱ Fairness & Freedom: The final Report of the Equalities Review, 2007

Race on the Agenda is a social policy think-tank set up in April 1997 to take over from Greater London Action on Race Equality which started in 1984. As a charity and a company limited by guarantee, we work with London's Black, Asian and minority ethnic (BAME) communities and others interested in race equality, towards achieving social justice by the elimination of discrimination and promotion of human rights, diversity and equality of opportunity. We achieve these aims by informing London's strategic decision-makers about the issues affecting the BAME third sector and the communities it serves and by making government policy more accessible to London's BAME organisations.