COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE RAPPORT SUR LE ROYAUME-UNI

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation au Royaume-Uni.

Conformément à la procédure pays-par-pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités du Royaume-Uni sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui selon la pratique habituelle de l'ECRI devait, en principe, refléter la situation au 3 juillet 2009, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

UK GOVERNMENT COMMENT ON THE 4TH REPORT ON THE UNITED KINGDOM BY THE EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

The United Kingdom Government welcomes this opportunity to comment on ECRI's 4th report on the UK. We welcome much that is in ECRI's report and in particular its acknowledgements of the progress that has been made since their 3rd report in 2005. We were pleased that ECRI were able to meet a wide range of officials and stakeholders during their March 2009 contact visit to our country and that they also took the opportunity to visit Bradford to see how policies to tackle racism and racial discrimination and promote community cohesion are having an impact at the local level.

The UK Government and the devolved administrations in Scotland, Wales and Northern Ireland are 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 Government believes that integration in the United Kingdom is not about assimilation into a single homogenous culture. The Government is committed to building a fundamentally inclusive and cohesive society by creating a sense of inclusion and shared British identity, defined by common opportunities and mutual expectations on all citizens to contribute to society and respect others. This approach does not just apply to minority communities. Without widespread social participation and valuing of all local cultures, we acknowledge that those from majority communities can also feel excluded or left behind by social change.

Substantial progress has been made in recent years. In **education**, where a few years ago pupils from many groups lagged behind in attainment, projects such as the Black Pupils Achievement Programme and the Aiming High Strategy have helped to raise attainment by under-achieving groups. This has led to significant increases in attainment for children from many of the ethnic groups who had the lowest attainment. The number of Black Caribbean pupils getting five good GCSEs has risen by over twenty percentage points since 2003, and the gap between pupils of Bangladeshi origin and the national average has been virtually eliminated.

In **employment**, the Ethnic Minority Employment Task Force has focussed action to raise ethnic minority employment rates. Projects such as Ethnic Minority Outreach helped thousands of people to become work ready and find jobs. We have championed the business case for equality, making it clear that it is not just equality for equality's sake. Since 1996, the gap between minority ethnic groups and the average has narrowed from 19 percentage points in 1996 to 13.8 points today.

In the **criminal justice system**, where some of the challenges were most acute, we have seen far-reaching changes. We have set targets for representation, recruitment and progression for minority ethnic police officers. We have changed how racist incidents are defined, and made the recording of Stop and Search more transparent. We have changed the way that police officers are trained, to raise awareness of the issues and ensure they are properly serving minority communities. As a result, the number of police officers from minority ethnic backgrounds has more than doubled to 5,793, up from 2,447 over the last ten years; and we have also seen an increase in the number of people from ethnic minorities in other areas of the criminal justice system, including the prison service, judiciary, and legal profession.

The drive to improve the diversity covered the full range of the public sector – to make services responsive to the needs of everyone. For example, in 1999 only 1.6% of senior civil servants were from an ethnic minority. In 2008 it was 4.3%, still short of what it should be, but a significant improvement.

We have done all this in the context of our broader work to raise incomes, reduce poverty and tackle inequality: introducing the minimum wage and tax credits, supporting the youngest children through Sure Start, overseeing a massive expansion in the number of university places, and investing in housing and regeneration.

That has often had most impact on the most disadvantaged families, including those from ethnic minorities, with improvements on issues like child poverty, overcrowding and the number of families living in non-decent homes.

All this is delivering encouraging results. The latest data from the Citizenship Survey tell us that people from minority ethnic communities are becoming more confident that the criminal justice system will treat them fairly. And minority ethnic communities have greater confidence in their ability to succeed and to influence decisions.

Social attitudes and the make-up of our society have also changed. One in ten children is now born into a mixed-race family. Research indicates that young

people are increasingly comfortable with and accepting of diversity, which is unsurprising, when this is what they are growing up with.

But it would be a mistake to see inequality only in terms of race and ethnic origin. Socio-economic status and poverty affect people's chances in life, regardless of race or ethnic background. These cannot easily be untangled. Members of ethnic minorities are twice as likely to be poor and it is often that poverty, rather than simply ethnic origin, which has a devastating impact on their chances.

Meanwhile, there is a growing Black and Asian middle class in the UK. Many more members of minority ethnic communities than before have a university degree, a good job and own their own home. And students of Chinese and Indian origin in particular do much better at school than the average. However, these groups are coming up against the old challenges in new settings. For example, higher achievement at school does not always translate into higher earnings. And recent research from the Department for Work and Pensions suggests that a CV from someone who is obviously from an ethnic minority is little over half as likely to result in an invitation to interview than one from a White applicant.

So we - and ECRI - must avoid a one-dimensional debate that assumes all minority ethnic people are disadvantaged. Such success stories can be excellent role models for others in their communities. And the rich variety of experience means that there is no 'average' group or person which we can cater for through a general approach. We must tackle inequalities based on need, supported by evidence. Without doing this, we risk overlooking groups and individuals with the poorest outcomes, including members of poor White communities, but also more recently established minority ethnic groups.

However, with regard to **citizenship, asylum and migration** issues, the UK Government disagrees with the thrust of ECRI's 4th report which does not give appropriate recognition to the purpose and the integrity of the strategies and systems in place in the UK. Nor does it reflect the practical realities of operating immigration controls for the benefit of the UK resident population and migrants.

There is no doubt about the UK's commitment towards asylum and human rights. We take protection seriously – and we deliver on it. Our protection, migration and citizenship systems are humane and fair but also firm on those who have been found by us and the independent courts to have no right to be here. That is perfectly within our obligations. There is no contradiction between effective immigration control and our longstanding commitment to providing protection to those who need it and preserving human rights.

Whilst protection is an important element of the UK Border Agency's work, it is just one element of a bigger picture. Asylum intake has dropped substantially since the peak in 2002 to around a quarter of the level then, and has remained steady for several years. Asylum seeking is no longer the dominant issue in the mass media and public perception. There is now a far greater focus on overall immigration levels and concerns about the impact on the UK's population size.

The bigger picture is that the UK Government has a duty to control immigration levels to the UK. If we did not do this, there would inevitably be an adverse impact on communities in the UK, which could endanger the safety of immigrants

themselves, and lead to increased racial intolerance. In the prevailing economic circumstances it could also lead to destitution and associated problems for migrants themselves and greater unemployment in the resident population, including those who have become citizens. There would also be increasing burdens on local and national services causing economic strain, which in turn would fuel intolerance and the other problems highlighted above. The Government does not believe it is right to stop immigration altogether so we have introduced a flexible Points Based System to ensure non-EEA migrants have the skills we need.

We refute the suggestion that our new earned citizenship architecture will add complexity to the process and have a negative impact on integration. This is a fundamental misunderstanding of our proposals which do as much to create a clear process as they do to aid integration.

The UK Government is clear that naturalisation as a British citizen is a privilege and not a right and that there is no automatic right for those who are in the UK temporarily to attain permanent residence. The UK Government is reinforcing these principles by changing the way migrants attain British citizenship. From July 2011, we will introduce a clear, three stage process which enables migrants to demonstrate they have earned their British citizenship. It is important that those who want to settle in the UK obey the law, abide by our rules and contribute to the UK. Our earned citizenship structure encourages and rewards those who integrate into British society. Those individuals will be rewarded with exactly the same length journey to citizenship as exists now. We want to give migrants adequate time to integrate and demonstrate their commitment to the UK. That is why, for those that do not voluntarily choose to conduct active citizenship, the journey to citizenship will be slightly longer. This in itself will provide more time for temporary residents to interact with UK society before being eligible for citizenship. A willingness to integrate, learn English and demonstrate commitment to the UK brings benefits for wider society and individual migrants alike. We intend to do all we can to welcome new migrants and to enable them to lead full lives as part of UK society. That is why our earned citizenship framework will create structures that help migrants to integrate, interact with the community and commit to the UK.

The ECRI report does not appear to demonstrate a clear understanding of the practical realities of operating an immigration system or, if they are understood, to give particular weight to them. Fundamentally, it does not take adequate account of the ways in which people act when they are confronted with obstacles to achieving their aspiration for a better life, nor the fact that there are organised criminals who wish to exploit individuals for financial gain.

It is a fact that the majority of people who claim asylum do not demonstrate the criteria for protection following careful scrutiny of their application by trained officials, and the independent courts, if they choose to pursue that option. It is a fact that some people attempt to abuse the protection system by claiming a false nationality in a fraudulent attempt to better their chances of being allowed to stay. It is a fact that many people who have been found, through careful scrutiny of their applications, to have no basis of stay in the UK do not return voluntarily and do not comply with requirements to effect their return – and that this may begin at an early stage through the premeditated destruction of identity documents. It is a fact that some people whose appeals have been exhausted choose to remain in

detention rather than return home despite the existence of voluntary schemes run by the International Organisation for Migration (IOM).

These actions by individuals hamper the operation of immigration control and divert resources which could otherwise be used to speed up the processing of applications across the board. They also illustrate why detention, within the lawful framework, is a regrettable necessity of an effective immigration system. We make no excuse for the proportionate steps we have taken to address these issues.

In recent years, the UK Government has rigorously examined our strategies, systems and processes and has made some of the biggest changes in generations. Case decisions are subject to challenge through the independent courts, including on human rights grounds. In several respects, including country of origin information, the UK is considered to be a world leader. We have been open about our operations and policies and have worked closely and collaboratively with stakeholders, including UNHCR, over a number of years.

For the above reasons, the UK Government does not accept as a balanced representation the negative landscape implied by ECRI's findings pertaining to citizenship, asylum and migration. Detailed responses to individual issues are provided below.

For ease of reference this Comment covers subjects in the same order as ECRI's report

I. EXISTENCE AND IMPLEMENTATION OF LEGAL PROVISIONS

International legal instruments

The UK notes the report's recommendation that it sign and ratify Protocol 12 to the European Convention on Human Rights. We currently have no plans to ratify Protocol 12, but we will study with great interest the judgments of the Court with regard to the Protocol now that it has come into force. We are sympathetic to any non-discrimination measure that is practical and consistent with UK law. However, we believe that any measure we sign up to should actually provide a workable solution that will deliver the desired result, and make a real difference to combating discrimination. We remain concerned that the drafting of the Protocol is very wide. Because of that, there remain unacceptable uncertainties regarding its impact if it were incorporated into UK law.

The UK has ratified the European Social Charter 1961. The Government continues to keep the question of ratification of the Revised Charter (and the collective complaints mechanism) under review, particularly in the light of the evolving interpretation and case-law of the European Social Rights Committee, the experts appointed to interpret and oversee compliance with it.

The UK notes the report's recommendation that it ratify the Optional Protocol to the International Covenant on Civil and Political Rights and make a declaration under Article 14 of the International Convention for the Elimination of all forms of Racial Discrimination, which provide for individual petition to the United Nations monitoring committees. We currently have no plans to ratify the protocol. The UK Government need to be convinced of the practical value to the people of the United Kingdom of the rights of individual petition to the United Nations under each of the

covenants and conventions to which they apply. In 2004, the UK acceded to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. One of our reasons for doing so was to enable us to consider on a more empirical basis the merits of the right of individual petition. Professor Jim Murdoch of Glasgow University reviewed the operation of the optional protocol, and we announced the conclusions of his review on 4 December 2008, which were that the optional protocol had not yet provided women in the UK with real benefits; non-governmental organisations in the UK had not used the optional protocol in advancing the cause of women, and that the quality of the UN Committee's adjudication on admissibility of complaints could appear inconsistent. Professor Murdoch's findings suggest that the first three years did not provide sufficient empirical evidence to decide either way on the value of other individual complaint mechanisms. We will need further evidence, over a longer period, to establish what the practical benefits are. On 8 June 2009, the Government announced that the UK intends to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities shortly. The Government will keep under review the applications made under these two optional protocols, how they are handled by the relevant committees at the United Nations, and whether their outcome demonstrates significant additional benefits to people in the United Kingdom. This evidence will assist the Government in assessing the merits of other individual petition mechanisms.

The rights of migrant workers and members of their family are already protected in UK legislation, including under the Human Rights Act 1998. The Government's position is that incorporating the full terms of the International Convention into UK law would be contrary to and undermine the Government's immigration policy. For example, it would undermine the Government's points based system and earned citizenship policies. The UK would be prevented from ensuring that only those people with the skills we need will be able to work here and we would not be able to ensure that migrants earn the rights that come with becoming a British citizen or permanent resident in the UK. Migrants would be allowed fuller immediate access to the benefits and social assistance system from the date they arrive in the UK and they would have the same rights as British citizens and permanent residents without distinction of any kind, including immigration status and length of residence in the UK. The Government does not believe this would be fair or right. In addition, this would create additional unwelcome burdens on the UK and represent an unreasonable 'pull factor' for migrants, including illegal migrants, to move to the UK.

The Government therefore has no plans to ratify the International Convention. The current arrangements in the UK strike the right balance between the need for a firm, fair and effective immigration system and protection of the interests and rights of migrant workers and their family members.

The UK notes ECRI's recommendation that it ratify the Convention on the Participation of Foreigners in Public Life at Local Level. At the Council of Europe Conference of European ministers responsible for local and regional government in November 2009 the UK signed a related instrument, an additional protocol to the European Charter of Local Self Government recognising the rights of citizens to participate in local affairs. The UK now proposes to begin the process of ratification of both instruments in tandem.

Citizenship legislation (paragraphs 16- 20)

Earned citizenship creates a clear three stage system which enables migrants to demonstrate they have earned British citizenship while encouraging and rewarding those who integrate into British society with exactly the same length journey to citizenship as exists now.

The earned citizenship provisions contained in the Borders, Citizenship and Immigration Act 2009 are the realisation of a third stage of reforms which we are introducing to strengthen controls and to ensure that newcomers to the United Kingdom earn the right to stay. The current economic and demographic challenges facing Europe mean we need to strike the right balance between, on the one hand, controlling irregular migration whilst, on the other, welcoming new migrants and ensuring, through activities that promote their integration and engagement with wider UK society, that they are supported in achieving their full potential in the UK. We do not believe this can be achieved through a mechanistic process of naturalisation. We hope that by providing greater opportunities for different communities to interact, people will understand each other better and through a shared sense of community and identity reduce the levels of tension mentioned elsewhere in the report.

Our objective is to make our immigration system clearer, more streamlined and easier to understand thereby reducing the possibilities for abuse of the system, maximising the benefits of migration and putting shared values at the heart of the system. Under the new system, the journey to citizenship will enable migrants to demonstrate a more visible and a more substantial contribution to Britain as they pass through successive stages. Probationary citizenship will provide a clear second stage in a newcomer's journey during which time they will be encouraged to integrate further by contributing to their local communities for example. The UK has set up a "design group" including civil society actors that is advising on what voluntary and community activities might promote effective integration and on a "light touch" regime for monitoring them. This system will therefore support migrants' integration and it will encourage migrants to continue on their journey towards securing citizenship. We consider that this will help migrants appreciate that they are on a journey and set out what their rights are as well as their responsibilities. This is not about delaying citizenship but rather about providing a framework for the individual to show that they are properly integrated into UK society and have earned the right to it. Research in the UK shows that many migrants already engage in volunteering or other community activities and those who do so can still apply for British citizenship after 6 years. This is the same time frame as under the current system.

We think it is reasonable to expect migrants not only to respect the immigration laws but also to meet the requirements for their entry and stay in the UK. The introduction of Earned Citizenship will mean that migrants need to meet clearly laid out requirements in order to progress to probationary citizenship and British citizenship or permanent residence.

The UK Government is clear that migrants who demonstrate active citizenship should be entitled to a quicker path towards British citizenship or permanent residence, in recognition of their contribution. Active citizenship is not mandatory; it is a mechanism to reward those individuals who have contributed to their

community. The design group we have established includes representatives from local government and the third sector, in order to ensure active citizenship operates effectively for the migrant, the voluntary sector and the community.

Criminal law provisions against racism applicable in England and Wales

Racially and religiously aggravated offences (paragraph 30)

Racially or religiously aggravated violence offences recorded by the police in England and Wales[1] fell by 4% between 2005/06 and 2007/08 from 35,611 to 34,344. As ECRI note in the later section on racist violence, there was a 6.9% fall in racist incidents between 2006/07 and 2007/08 as well as a 10% decrease in racially or religiously aggravated offences in the same period. It is not clear why this change occurred. Estimates based on British Crime Survey (BCS) data do show a rise in the number of racially motivated incidents from 139,000 in 2005/06, to 184,000 in 2006/07 and to 207,000 in 2007/08. However, these are estimates rather than recorded crimes.

Incitement to racial or religious hatred (paragraph 33)

The Government notes ECRI's comments concerning its 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, such as the UK.

Criminal law provisions against racism applicable in Scotland

We note ECRI's recommendation that the authorities continue and intensify their efforts to improve the reporting and recording of racist offences in Scotland. We also note that ECRI is not specific in relation to what areas need to be improved, merely stating that "*some reports suggest that the extent and accuracy with which racist incidents are recorded in Scotland may vary from one police unit to another*."

There is a common recording standard throughout Scotland which was developed between the Scottish Government and the eight police forces. There is nothing in ECRI's report to evidence the need for any change in this regard. A variety of initiatives exist at police force level to encourage victims to report incidents and it is right that these efforts sit with police forces who are best placed to tailor initiatives that fit local needs.

In more general terms, the Scottish Government Race Equality Statement (2008) sets out its strategic approach to race equality over 2008-2011. To aid the implementation of its aims, the Scottish Government has granted a total of £9 million to voluntary agencies aimed at tackling racist attitudes and improving the lives of minority ethnic and faith communities in Scotland.

More specifically, the Scottish Government works closely with the police service in Scotland and shares the view that equality and diversity is at the heart of policing.

By way of recent example, the Cabinet Secretary for Justice participated in the joint launch of the ACPOS Equality and Diversity Strategy. The event was attended by a number of key stakeholders across the Scottish diversity arena, including SEMPER (Supporting Ethnic Minority Police staff for Equality in Race). SEMPER is funded by Scottish Government and plays a significant role in taking forward an effective approach to race issues across Scotland.

Both SEMPER and the Scottish Government work closely with police forces and the Scottish Police College in ensuring appropriate diversity training to all new recruits which is augmented by further police force level training to all police officers in Scotland.

Civil law provisions against racial discrimination – Northern Ireland (paragraph 67)

We note ECRI's comment "that the authorities keep the effectiveness of the section 75 public sector equality duty applicable in Northern Ireland closely under review". However, this responsibility in fact lies with the Equality Commission. The Equality Commission acknowledges in its Section 75 guidance that duty 2 carries with it less weight than duty 1, but public authorities are required to take the specific matters into account and give these duties the required weight when carrying out their functions relating to Northern Ireland. Parliament's stated assessment is that there is a **need** to promote equality of opportunity (between the 9 categories specified in Section 75(1)) and a **desirability** to promote good relations between religious belief, political opinion or racial group (Section 75 (2)). There is interdependence between the two duties.

Following its Review of Effectiveness Report, the Equality Commission hopes to launch its revised Section 75 guidance later in 2009 which will place greater emphasis on designated public authorities to report on progress in terms of outcomes rather than processes as has been the focus to date.

II. DISCRIMINATION IN VARIOUS FIELDS

Despite the significant progress made over the last few years, the Government acknowledges that many citizens of minority ethnic origin do less well than the rest of the population. Sometimes, that can be explained by socio-economic status and poverty. But sometimes, the differences persist even when we adjust the data to take account of those socio-economic factors. People from ethnic minority groups are still consistently more likely to be unemployed and to experience 'ethnic penalties', in other words a worse outcome which cannot be explained by education levels, age or where a person lives.

Direct and indirect discrimination is a factor which explains some of the differences. But ECRI should note that there are other factors involved – whether lower expectations or a relative lack of 'social capital' – for example, lower understanding of how public services work. And of course there can be cumulative impacts. If someone fails to achieve their potential at school, it will limit their opportunities throughout their life.

In January 2010, the Government therefore launched a new strategy to tackle racial inequalities. As ECRI note in their report, this followed an extensive consultation. This strategy builds on the progress and achievements of the past

decade, but also recognises the changing context in which we are working to tackle inequalities experienced by minority ethnic groups. By minority ethnic groups we mean people from 'visible' ethnic minority groups, defined in the 2001 Census as not being in the White group: such as Black, South Asian and Chinese people; as well as Gypsies and Irish Travellers.

It is designed to ensure that promoting race equality is central to all policy making in all public agencies, and that all public services are playing their part in tackling inequalities. It also outlines the targeted action for those groups who still face specific challenges which are not effectively addressed by this general approach. We must address the specific obstacles and barriers which hold particular groups back – whether that is lower aspirations, higher exclusion rates, or racism or other forms of prejudice.

Our approach is both to promote greater equality for all and combine that with efforts to target the specific problems faced by particular communities. It cannot be "either/or": we have to do both.

Our strategy on race equality therefore has four elements:

- a strong legal framework, with effective enforcement;
- ensuring that work on race equality is an important feature of every public agency;
- more emphasis on transparency and accountability for outcomes on race equality; and
- targeted work to address specific areas of concern

Specifically we will:

- Continue to promote strong ministerial **leadership** in each department. Ministers with responsibility for equality will promote best practice across government and challenge government departments to take action to reduce disparities for minority groups, particularly in key public services like education, health and policing.

- Work with the Equality and Human Rights Commission and inspectorates, such as the Audit Commission to promote **better compliance** with the duties on public bodies to promote equality. For example, the Office for Standards in Education (Ofsted) has made equality part of its new school inspection framework in response to a recommendation from the independent REACH panel. We will also use the Equality Measurement Framework to monitor our progress in reducing race inequality and build equality into our reforms of civil service capabilities.

- We will be more **transparent**, better communicating the benefits of equality and the progress we have made.

- Where groups face particular issues, we will initiate **specific projects** to work with communities to identify solutions.

- We support the work of the voluntary (third) sector in addressing race inequality through the **Tackling Race Inequalities Fund**, which will support national regional bodies. We will also support these bodies to work with and influence public policy.

The Department for Communities and Local Government (CLG) will lead this strategy across Government

Employment (paragraphs 92-99)

The UK Government is committed to reducing the ethnic minority employment rate gap, which currently stands at 13.8%. The Minister of State for Employment and Welfare Reform chairs the Ministerial Ethnic Minority Employment Task Force, which brings Government departments, other public sector bodies and private sector representatives together to ensure we have an embedded cross-governmental ethnic minority employment strategy.

In line with our strategy that local areas are best at finding local solutions to employment issues, we are investing in area-based initiatives such as the £1.5 billion Working Neighbourhoods Fund and City Strategy Partnerships. We know that high concentrations of ethnic minority customers (around 52%) live in deprived areas, so by focussing provision on those areas we are by definition also driving investment into ethnic minority communities.

However we also recognise that many people from ethnic minority groups do not live in deprived areas, and so we are ensuring that mainstream programmes are flexible enough to meet the specific needs of ethnic minority customers, in particular through the introduction of the Flexible New Deal.

We have identified public sector procurement as a major lever for promoting race equality in employment and improving suppliers' race equality employment practices. We are working on procurement across Government on the Equalities Bill and we are contributing to the response to the Business Commission report *Race Equality in the Workplace*.

The Task Force commissioned procurement pilots and the evaluation of these was published on the website of the Department for Work and Pensions in September 2009. The key finding was that government departments were able to incorporate race quality requirements into contracts without causing suppliers major difficulties. The Department for Work and Pensions was able to move the furthest in implementing the pilots. The Task Force were presented with a number of recommendations in order to roll the findings out across government.

Key Departments across Government are now working together and agree that the work the Department for Work and Pensions is doing should be shared across government departments. Alongside this information, departments will be given up to date information on government activity in this area through the Equality Bill and will be asked to formulate their own position as to whether they can go further in achieving equality outcomes through procurement.

DWP has recently undertaken "matched CV" testing research to assess the levels of discrimination in recruitment. The Task Force will consider the findings and decide what action Government should take to help eliminate discrimination.

In Scotland, the Scottish Executive set up the Ethnic Minority and the Labour Market (EMLM) Strategic Group in late 2005 to identify how the employment opportunities for ethnic minorities in Scotland can be improved. The Scottish Government Race Equality Statement (2008) incorporates priority findings of the

EMLM. In Scotland, Glasgow has the highest ethnic minority population and the Scottish authorities have been working with Glasgow Works and providing it with funding for a dedicated post to take forward the implementation of a Black and minority ethnic sub-group action plan. The lessons learned from this work will inform policy changes, as necessary.

Through its One Scotland campaign, the Scottish authorities continue to send out a strategic, consistent message which will help to create a society where racism is not acceptable. The One Scotland campaign is delivered through a number of strands of work, including television advertising, Ministerial events and Rock Against Racism concerts. The principle aim of Rock Against Racism www.rockagainstracism.info is to deliver the One Scotland message to a young target audience. The message informs and educates young people about the damaging effects of racism in Scotland and encourages them to celebrate the country's cultural diversity.

Administration of justice (paragraphs 110-121)

The Government is committed to tackling unjustified disproportionality in the criminal justice system. We have introduced a new public service agreement which requires local Criminal Justice agencies to: "better identify and explain race disproportionality at key points within the criminal justice system and will have strategies in place to address racial disparities which cannot be explained or objectively justified'.

We recognise that disproportionality can arise from a number of factors and that agencies need help to determine the causes of disproportionality, that can be justified and those which cannot. We have developed a diverse programme of work to improve the criminal justice system for people from Black and minority ethnic communities, as suspects, defendants, offenders, victims and staff to improve trust and confidence in the criminal justice system. This includes the development and implementation of the Minimum Data Sets and the development of a series of diagnostic tools to enable Local Criminal Justice Boards to deal with the issues and take ownership at the local level; to critically analyse local ethnicity data in order to identify unfair disproportionality; and to develop evidence-based responses to address the issues locally. These tools include:

- A diagnostic tool for LCJBs to identify and explain or reduce race disproportionality in the employment, retention and progression rates of criminal justice system staff at local level.

- The Stop and Search diagnostic tool which has been published and has already been used in a number of forces with dramatic results. For example, police in Stoke-on-Trent have reduced the levels of disproportionality from 4:1 to 2:1.

- A diagnostic tool on the prosecution and handling of hate crimes.

- A diagnostic tool on disproportionality in arrest rates is currently being piloted in Gwent and Merseyside LCJBs and

- Work is underway to design a diagnostic tool on disproportionality in bail decisions.

This work is producing real results. Perceptions of fair treatment by the criminal justice system and its agencies amongst Black and minority ethnic communities (as measured by the Citizenship Survey) continues to improve, with 28% of people from those communities perceiving worse treatment by the criminal justice system than White counterparts in the year to March 2008, compared to 33% in 2001.

Locally, 42 Local Criminal Justice Boards (LCJBs) co-ordinate activity and share responsibility for delivering criminal justice in their areas. We have introduced the Minimum Data Set (MDS) to ensure that consistent and comprehensive ethnicity data is available to LCJBs on all criminal justice agencies. This enables Local Criminal Justice Boards to performance manage their local criminal justice system, identify issues of concern and work with communities to develop local solutions. The Minimum Data Set has been designed to be easy to use and is configured to allow an assessment of disproportionality at various points of the criminal justice system.

LCJBs will be required to use local data to identify, examine and understand disproportionality at key stages of the criminal justice process including:

- Stop and Search

- Arrests

- Charging decisions

– Convictions/ acquittals

- Remands

- Sentences

- Supervision orders

- Prison population

- Prison experience

All LCJBs will have Minimum Data Sets by March 2011. We are currently ahead of schedule in the roll-out of the Minimum Data Set. It has been rolled out to 12 LCJBs, nine are in the process of being inducted and a further nine have signed up to the next tranche of implementation. These 12 LCJBs are now examining the data available to them and discussing with agencies how to best address the issues identified.

Following targeted work there has been a significant increase in the quality of data from Magistrates' Courts (from 13% producing acceptable data in first quarter 2007 to 64% in first quarter 2009).

It would not be appropriate to monitor many of these areas of work by religion. Research has shown that many faith groups strongly oppose being asked to declare their faith (even in a voluntary capacity) during a street encounter (Stop and Search etc) with a police officer.

We do collect figures on the faith of those in custody, but these need to be treated with considerable caution. For example, Muslim prisoners are not representative of the wider Muslim community. 42% of Muslim prisoners had an Asian background compared to 78% of Muslims in the wider society coming from an Asian background.

Legal aid (paragraphs 122-124)

The Government recognises that discrimination cases may be of considerable importance to the client and raise issues of wider public interest, which is why legal aid is generally available to bring discrimination cases in the civil courts in England and Wales. This is subject to the applicant qualifying financially and showing that they have reasonable grounds for taking, defending or being a party to proceedings, and that it is reasonable, in the particular circumstances of the case, for legal aid to be granted.

In funding litigation the Legal Services Commission must consider whether a case has a reasonable chance of success, whether the benefits of litigation would outweigh the cost to public funds, and whether the applicant would gain any significant personal benefit from proceeding, bearing in mind any liability to repay the costs if successful. These factors are similar to those that would influence a privately paying client of moderate means when considering whether to become involved in proceedings.

As ECRI has acknowledged, the Employment Appeal Tribunal is fully within the scope of legal aid.

However, legally aided representation is not generally available in employment tribunals, as their procedures are designed so that people can prepare and present their own cases, and it is not uncommon for litigants to be assisted by advisers who are not necessarily legally trained.

Funding for general legal advice (falling short of advocacy) is already available, to those who qualify financially, under the Legal Help scheme. This allows legal aid solicitors to advise clients on tribunal procedures and to assist them to prepare their cases, including preparation of case papers and obtaining counsel's opinion if appropriate.

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 employment tribunal cases where representation may be essential for a fair hearing, and where no other sources of help can be found.

The Government is committed to ensuring that as many people as possible get access to the justice they deserve for the available budget (which is one of the most generous in the world but, given other Government priorities and the current economic situation, is necessarily limited).

III. RACIST VIOLENCE

Racism and extremism can quickly fuel community tensions and damage cohesion. The Government therefore is committed to tackling all hate crime across the

equality strands, including hate crime involving acts of racist violence, and has funded a number of projects which have a clear focus on prevention. The Government has also supported a number of grassroots community projects to understand the causes of hate crime and minimise and prevent its effect.

The policy of the Crown Prosecution Service (CPS) is to prosecute racist and religious crime fairly, firmly and robustly. The CPS records the decisions it makes whether or not to prosecute cases identified as racial or religious incidents and also the results of cases it prosecutes. In addition, religiously-aggravated offences are reported to the Director of Public Prosecution's Principal Legal Advisor personally so that he can express his own view about the prosecution decision.

The CPS has published an annual report on racially and religiously aggravated crime, giving both local and national statistics, since 1999. The CPS Racist and Religious Incident Monitoring Scheme (RIMS) annual report is a public document and can be obtained from the CPS's Communications Branch or on its website in the Research, Monitoring and Evaluation Reports section.

The report gives information on the number of cases sent to the CPS by the police, the CPS's decision on whether to prosecute, the charges prosecuted or discontinued, the outcome of charges prosecuted in the magistrates' courts, youth courts and Crown Court and the sentences imposed.

In 2006-07, the CPS established a Hate Crimes Monitoring Project to improve the electronic recording of hate crime and to enable the CPS publicly to report on hate crime data in a single annual report. From 2008 the CPS has published an Annual Hate Crime Report which contains performance data on racist and religious crime (along with performance data on other hate crimes). This Annual Hate Crime Report replaced the RIMS annual report and is available on the CPS website.

The CPS consulted internally and externally with a wide range of community partners in relation to this work. The Code of Practice for Victims of Crime has imposed new duties and obligations on the CPS. Monitoring racist and religious crime and monitoring the outcomes of crimes involving black and minority ethnic victims and witnesses will help the Service ensure that it is complying with its obligations and that it is providing a quality service for all victims of crime.

The CPS has established Hate Crime Scrutiny Panels made up from members of the public covering all its Areas, which scrutinise the Service's performance on how it handles hate crimes and disseminates lessons learned to prosecutors and CPS staff.

IV. RACISM IN PUBLIC DISCOURSE

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. However it is not the Government's role to "impress" on the media any particular approach to these issues. That would not be consistent with a free press.

That said, the impact of myths rumours and misinformation on cohesion is well known, particularly surrounding the arrival of new migrants. These are often hard to challenge. The Department for Communities and Local Government has been working with a number of local authorities to find ways in which they can communicate positive factual messages in an impartial way. We have also been working with some local authorities on how best to deal with the negative perceptions of the town in the media. The aim of this work is to work with public sector agencies (principally the local authority and local strategic partnerships) to critically examine their engagement with local media and to consider ways in which supportive coverage can be fostered and community cohesion generally promoted.

The Department for Communities and Local Government is also currently working with the Society of Editors, the Attorney General's Office, the Ministry of Justice and representatives of the Jewish community to develop a guide for the media on the role and responsibility of moderators of on-line blogs.

The importance of producing a guide of this nature cannot be overstated in light of recent events where reputable newspapers allow the publication of blatantly antisemitic, Islamophobic or racist comments.

Additionally, the Government is keen to challenge and remove perceptions which can contribute to generating hostility towards migrants through locally driven, resourced, initiatives.

Concrete measures Government has taken in this area include:

1) allocating the Migration Impacts Fund (£35 million p.a.), a tax paid by migrants which is used to manage impacts on local services attributable to migration,

2) promotion of evidence that migrants do not place a significant burden on social housing, and actually tend to use private rented housing,

3) a programme of work with the Office for National Statistics to ensure public sector funding streams follow more closely population shifts caused by migration, and

4) funding for English for Speakers of Other Languages (£300 million p.a.), Exceptional Circumstances Grant to schools facing migration pressures (£6 million p.a.) and other measures to facilitate migrant integration and reduce the impact on local communities of rapid population change driven by migration.

V. ANTISEMITISM

We welcome ECRI's acknowledgement of the UK Government's strong committed to tackling antisemitism. We believe the best way to do that is through effective implementation of strong legislation against racial and religious discrimination and racially and religiously motivated crime. The Government strongly condemns all antisemitic incidents and understands the fears and concerns of the Jewish community in Britain. British Jews, like all communities must be able to live their lives free from fear of verbal or physical attack. The Government will continue to meet and work with Jewish community representatives and continue to offer whatever support it can

The Department for Communities and Local Government is leading the Government's response to the All Party Inquiry into Antisemitism and co-ordinates the cross-government task force which tackles antisemitism. The taskforce is made up of officials from across government and representatives of the Parliamentary Committee against Antisemitism and the Jewish community.

The task force meets quarterly and is instrumental in ensuring that the commitments made by Government departments in the "one year on" response are followed through. The taskforce has been positively received by the Jewish community and the Chief Rabbi hosted a reception last year to thank members of the taskforce for the work they had done to tackle antisemitism.

The Department for Communities and Local Government has also provided funding to the European Institute for the Study of Contemporary Antisemitism to conduct research into antisemitic discourse. This research was launched by the Minister for Cohesion in July 2009. The report has been well received and officials are currently following up on the recommendations.

The Department for Communities and Local Government has also supported the work of the Parliamentary Committee against Antisemitism to take the model of an all party inquiry into antisemitism across Europe, the Americas and Ethiopia.

The Department for Communities and Local Government hosted the opening reception for the London conference for combating Antisemitism on 15th February 2009; the conference brought together parliamentarians and experts from across the world to discuss how to tackle antisemitism and resulted in the adoption of the London Declaration to tackle Antisemitism. The Prime Minister and a number of other ministers have signed the declaration.

The Department for Innovation, Universities and Skills has formed a sub-group to tackle antisemitism on university campuses and has tasked their Equality Challenge Unit to work with the Union of Jewish Students to investigate why Jewish students do not report antisemitic incidents to university authorities.

Government departments are continuing to work together to ensure that the security concerns of the Jewish community in relations to schools and Jewish communal buildings are taken in to account.

VI. VULNERABLE/TARGET GROUPS

Muslim communities (paragraph 144-149)

The UK Government is determined to tackle Islamophobia and stamp out extremism and racism wherever it occurs. We deplore all religious and racially motivated attacks. We will not tolerate racists and trouble-makers disrupting our local communities.

We are determined that events involving the Muslim community should not be exploited by anyone as an excuse to start blaming, persecuting, or preaching inflammatory messages about any particular group. British Muslims like all communities must be able to live their lives free from fear of verbal or physical attack. The Government has a shared responsibility to tackle Islamophobia and all

other forms of racism and prejudice against members of lawful religious traditions not only with those communities directly affected, but with all members of society.

The Government is fully committed to engaging with faith and non-faith communities to help build a more inclusive, tolerant and cohesive society. Our relations with Muslim communities are extremely important and we will continue to strive to improve them.

Any crime should be reported to the police. The police are alive to the need to reassure communities that might be targeted and liaise directly with community leaders. The police and prosecuting authorities have robust policies - police forces continue to be alert to crimes being committed against members of all faith communities and take appropriate steps to safeguard people and property.

Additionally, in a July 2003 Policy Statement, the Crown Prosecution Service gave a commitment to prosecute racist and religious crime fairly, firmly and robustly. This sends a clear message to perpetrators that they will not get away with crimes of hatred towards members of racial or religious groups.

The Government is aware that research conducted by a number of our stakeholders has indicated that Islamophobia is on the rise. This may in part be due to the increase in reporting crimes against Muslims, a development that the Government welcomes and is keen to encourage in practical ways.

The police collate data on trends in hate crime and whilst data is not available to show any increase in attacks on religious establishments, the Association of Chief Police Officers (ACPO) has noticed a trend where tension exists around the building of new mosques. ACPO has offered guidance to forces to raise awareness of this issue and to enable better community engagement to prevent objections escalating into tension.

The Government funds a number of projects to tackle Islamophobia including a campaign by the Muslim Safety Forum to improve awareness and reporting of hate crime, especially Islamophobic hate crime. In addition, we plan to fund some capacity building work among grassroots Muslim community groups to enable them to become third party reporting centres on hate crime.

In 2009 we funded the Muslim Cultural Heritage Centre to deliver a hate crime project aimed at bringing young people from different faith and cultural backgrounds from across London. The project adopted a creative and contemporary approach using music, poetry and performance to generate the awareness and understanding of young people about hate crime, the impact it has on its victims and to encourage them to explore interfaith identification.

The Government also believes, however, that Muslim communities need to work closely together, and with other faith and community groups, as well as local agencies and central government. By joining up, we can tackle Islamophobia, race hate crimes and extremism much more effectively than through any number of isolated initiatives and activities.

We have broadened and deepened our engagement with the UK's diverse Muslim communities, increasing the reach of our work into communities and building trust and genuine partnership. We have built the capacity of key partners to have a

national impact through the Community Leadership Fund which is currently funding a total of £5.1 million to 55 projects over three years.

The Government has also established the National Muslim Women's Advisory Group and a Young Muslims Advisory Group. These groups give government a platform through which it can engage more directly with young Muslims and Muslim women from across all communities on issues affecting them in Britain. We are also making efforts to increase our engagement with communities previously under-represented in our work, such as the Somali community.

The Scottish Government continues to develop its very positive and constructive relationships with a broad range of Scottish Muslim community representatives. Work is under way to build on these relationships by looking more closely at the issues which Muslim communities in Scotland are facing, and the outcomes of this will allow it to develop new areas of activity to address the issues identified. In addition it is funding a range of school and community based projects and initiatives which challenge Islamophobic attitudes and promote a positive multicultural Scotland.

Gypsies and Travellers (paragraphs 150-170)

The Government welcomes ECRI's recognition of the effort being made to address the disadvantages faced by Gypsies and Travellers in accessing adequate accommodation. The independent Task Group on Site Provision and Enforcement for Gypsies and Travellers reviewed the position in 2006 and 2007. The Group concluded that the policy framework put in place by the Government was broadly right and that race relations legislation should provide protection for Gypsies and Travellers, as well as promoting good relations with their neighbours.

As part of its response to that report, the Government committed itself to producing an annual report on Gypsy and Traveller policy. In its first report published in July 2009, the Government set out the progress that has already been made on a number of issues relevant to Gypsies and Travellers including accommodation, health and education. Whilst acknowledging that more progress needs be made at the local level with regard to site delivery, the Government considers that with effective leadership, particularly in local authorities, rapid progress can be made towards delivering Gypsy and Traveller accommodation through the planning framework set out in ODPM Circular 01/2006 (*Planning for Gypsy and Traveller Caravan Sites*).

All local authorities in England have now completed Gypsy and Traveller Accommodation Assessments. The information contained in those assessments is already feeding into the Regional Spatial Strategies across England, helping to provide a clear indication of the accommodation needs to be addressed in each local authority area. This year has already seen publication of updated pitch allocations in both the East of England (which has the highest number of Gypsies and Travellers in England), and in the East Midlands. Work on providing updates to the Regional Spatial Strategies in London, the North West, South West and South East is well under way.

The Government recognises that the full delivery against the policy framework is not something that can happen overnight. It is still too early to fully assess the

impact of the framework on accommodation supply, but in the long term it will help local authorities to plan effectively for Gypsy and Traveller accommodation needs. It is clear that local authorities are moving forward with production of Core Strategies and that these are, as required by ODPM Circular 01/2006, setting out criteria to be used to assist authorities in assessing planning applications for Gypsy and Traveller sites. The Department for Communities and Local Government will continue to monitor implementation of the framework; it will keep under review what action could be taken, or support given, where progress is found to be too slow.

From 2008 to 2011, the Government has made £97 million available to local authorities and Registered Social Landlords through the Gypsy and Traveller Site Grant to assist them with the cost of providing new or refurbishing existing sites. From 2006 to 2008, the grant has provided funding for local authorities to build 455 new pitches and to bring a further 60 pitches back into use through refurbishment. From 2009-10, responsibility for management of this funding has been transferred from central government to the Homes and Communities Agency, the key housing and regeneration and delivery vehicle in the UK. This will enable the provision of Gypsy and Traveller accommodation to become an integral part of the Agency's model for delivering housing and regeneration in partnership with local areas.

The Government's stated policy objective is that everyone should have the right to a decent place to live; there should be sufficient provision of well managed authorised Gypsy and Traveller accommodation where it is needed and fewer unauthorised sites. It is an underlying principle of the Government's framework that the provision of authorised sites in appropriate locations will help to reduce unauthorised developments and encampments.

As well as providing homes for Gypsies and Travellers, it will also help to reduce the community tensions that can frequently arise where unauthorised developments and encampments occur. Local multi-agency led pilot projects have also been introduced in a few areas to reduce tensions which may exist between Gypsies and Travellers and the neighbouring community. These form part of the Government's wider programme for tackling race hate crime and are intended to reduce community friction and make the neighbourhood a better place for everyone living there.

However, it is also important to ensure that the policy framework provides appropriate and proportionate protection to those who might be affected by unauthorised developments or encampments where these occur. The effective use of enforcement action against unauthorised sites is integral to achieving this.

Where eviction does become necessary, the Government has made clear that it expects this to be conducted in a responsible manner and that, in line with their statutory obligations, local authorities should ensure that appropriate services are provided for those who need them.

The Government has also introduced stronger enforcement powers against unauthorised encampments (under Section 62 of the Criminal Justice and Public Order Act 1994) that can be used where suitable Gypsy and Traveller accommodation is available locally. This should act as an additional incentive to

local authorities, particularly those that experience frequent unauthorised encampments, to act quickly to ensure authorised Gypsy and Traveller accommodation is made available in the local area.

In Scotland, new guidance published by the Scottish Government for local authorities on housing need and demand assessment highlights the importance of considering the accommodation requirements of Gypsies and Travellers and refers local authorities to separate guidance published by the Department of Communities and Local Government, which is relevant to the Scottish context. Evidence about the accommodation requirements of Gypsies/Travellers will inform the preparation of the local authority's Local Housing Strategy.

The Scottish Government is committed to helping local authorities to meet the accommodation needs of Gypsies/Travellers in Scotland and has provided £5 million to local authorities over the last 5 years (2005/06 to 2009/10) to upgrade their existing sites or for the creation of new sites for Gypsies/Travellers. In 2010/11 the Gypsy/Traveller Site Grant will be rolled up into the local government settlement in line with the Scottish Government's concordat with the Convention of Scottish Local Authorities.

To support local authorities in the management of unauthorised encampments, the Scottish Government issued Guidelines in December 2004. These encourage local authorities, in conjunction with the police, to develop their own strategies for managing incidences of unauthorised camping. The guidelines discuss the importance of balancing the needs of the settled and Gypsy/Traveller communities. They also stress that local authorities and police should support Gypsies/Travellers to access local services. It highlights that decisions about removal should be informed, balanced and proportionate taking into account the nature of the location and the needs and behaviour of the Gypsies/Travellers. The guidelines also make clear that the provision of suitable accommodation for Gypsies/Travellers is an essential element in managing unauthorised encampments and that local authorities are now expected to consider the accommodation needs of Gypsies/Travellers as part of their Local Housing Strategy.

Jobcentre Plus (the Government agency supporting people of working age into work) recognises that Gypsies and Travellers can encounter disadvantages in the labour market. Advisers in Jobcentre Plus will engage with local Gypsy and Traveller representative groups as a means of accessing the communities within their areas. They will aim to forge strong links with the communities and are a first point of contact in assisting Gypsies and Travellers with any issues they may have. Advisers can help with accessing benefits, help in completing forms or reading letters, and can direct customers to other agencies that can help with legal issues, including evictions, etc.

Refugees and asylum-seekers (paragraphs 171-179)

The UK Government is fully committed to delivering on its international commitments, including those relating to protection and human rights.

The UK Government welcomes ECRI's acknowledgement of the National Audit Office (NAO) report in January 2009 which stated that management of the asylum system had improved. We recognised the areas for further improvement identified

by NAO – we are not complacent and have already taken positive steps in several areas.

We sincerely believe that our policies and procedures are fully compliant with our obligations and we do not accept a number of ECRI's conclusions.

Asylum Decision Quality

We are proud of the overall quality of our asylum decisions and the UK Border Agency has worked hard to drive up quality throughout the decision-making process. We recognise the importance of getting the decision right the first time and operate a number of initiatives to focus on quality, including an independent Quality Audit Team and additional checks by team managers. The UK Border Agency's Quality Audit Team assesses a significant proportion of asylum decisions each month, using criteria developed and agreed in conjunction with the United Nations High Commissioner for Refugees (UNHCR).

The UK Border Agency has worked jointly with the UNHCR Quality Initiative Team since 2004. Its aim is to assist the UKBA in the refugee determination process through the monitoring of procedures and the application of the refugee criteria. We have implemented a number of initiatives recommended in the reports submitted by UNHCR. Feedback from UNHCR about engaging with the UK in this way has been positive. Further information about the quality initiative project can be found at the following link (http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/unhcrreports/).

The UK Border Agency acknowledges that some asylum applicants have not been routinely screened. The reasons for this are due to variances in how an applicant enters into the asylum process. However we are reviewing our screening processes and continue in our efforts to make the system more effective and robust.

The screening interview is not the platform for exploring the basis of the claim. A brief summary of why they are claiming asylum is noted for administrative purposes. The primary aim of the screening interview is to establish the applicant's identity, immigration history and route them into the asylum process. The applicant is given a copy of the screening interview and has the opportunity at the substantive interview to rebut any points with which they subsequently disagree. The substantive interview is the opportunity to give their full account of the reasons they are claiming asylum.

Asylum seekers have sufficient time to substantiate their case and in addition to an in-depth interview will always be given an opportunity to produce further evidence. Asylum seekers will have their case considered by a trained, specialist case worker and, if refused, will have the opportunity to appeal their case to the independent Asylum and Immigration Tribunal and possibly to the High Court and Court of Appeal. This provides a fair and transparent refugee status determination process.

The Asylum and Immigration Tribunal (AIT) will transfer into the unified tribunal system in early 2010. Asylum seekers will be able to challenge UK Border Agency decisions by appealing to the First-Tier Tribunal, with onward rights of appeal to the Upper Tribunal (which will include High Court Judges) and the Court of Appeal. We believe this is a robust and independent system which ensures that asylum seekers have sufficient means of redress. It also means that those who qualify for asylum have this confirmed quickly.

We do not accept that an allowed appeal automatically indicates that the initial decision was wrong. There are many reasons why a decision to refuse asylum may

be overturned subsequently at appeal. This includes the passage of time between the decision and appeal, during which time individual circumstances may have changed; a change in conditions in the asylum seeker's country of origin since the date of the initial decision; and the right of independent Immigration Judges to take a particular view on a point of law or credibility of an appellant.

The purpose of the Detained Fast Track (DFT) is to provide an expedited process for asylum claims which are considered straightforward and capable of speedy resolution. The timetable attached to Detained Fast Track cases is therefore inevitably tight. The DFT does not, however, operate arbitrarily. If prior to entry to the Detained Fast Track it is clear that the case is not amenable to a quick decision the case will not enter the fast track. If, once a case enters the Detained Fast Track, it then emerges that it cannot be decided promptly the case will be removed from the process and the applicant will be released from detention for their application to be dealt with in the normal way. While it is true that the numbers of cases granted asylum in Detained Fast Track is low, the overwhelming majority of the decisions to refuse are upheld on appeal.

Detention & Removal

Decisions to detain are not taken lightly and any decision to do so must be taken in line with policy and guidance that those tasked with such decisions are required to comply with.

Immigration detention has never been subject to judicial authorisation or direct oversight. This is fully in line with the European Convention on Human Rights (ECHR) Article 5 which does not require there to be such judicial involvement in immigration detention decisions. Introducing judicial authorisation or some other form of automatic direct oversight would inevitably create a significant burden for the courts and would simply add another layer to the immigration and asylum process that we are seeking to simplify.

We believe that our decision making process on the appropriateness of continued detention is robust and as such we do not consider that judicial oversight of every decision to authorise or maintain detention would be an appropriate use of resources. Indirect oversight does however exist: individuals are able to challenge the lawfulness of detention through the process of judicial review and habeas corpus and can also apply to Immigration Judges for release on bail. This satisfies the requirement in ECHR Article 5(4) that detained persons should be able to bring proceedings before a court to challenge the lawfulness of their detention. We are satisfied that the existing position provides an appropriate level of judicial oversight.

Although Immigration Act powers to detain are not time limited, domestic and ECHR case law provides that detention must last for no longer than is reasonably necessary for the purpose for which it is authorised and must not be of excessive duration. It is important to recognise that those with no legal basis of stay in the UK can voluntarily leave at any point and, where they refuse to do so, it is entirely right that we seek to enforce removal.

We always prefer that people leave the UK voluntarily rather than have their return enforced but if this option is refused then it will become necessary to enforce

removal including the arrest and detention of those individuals or families who refuse to comply.

We recognise that the detention of children is an emotive issue but where families with children will not leave the UK voluntarily when we and the independent courts have found them not to have any legal right to stay here it is necessary to enforce that removal. Detention plays a vital role in that process.

The UK Border Agency always aims to keep the detention of families to the minimum period possible and families with children would not normally enter detention without removal directions in place. UKBA is committed to review family detention regularly taking into account the welfare of the family. There are comprehensive guidance notes for all officers dealing with cases involving the detention of children, and the authority of an Inspector or above is required prior to detention to ensure the detention of children remains strictly limited to cases where it is absolutely necessary.

In addition, the UK Border Agency has an Office of the Children's Champion which works to ensure that our practices with respect to children are in line with our duty to have regard to the need to safeguard and promote children's welfare.

The UKBA is actively testing alternatives to detention, to encourage families to leave voluntarily and avoid an enforced removal. We are currently running a new pilot project in Glasgow, working in partnership with Glasgow City Council, offering a select few families temporary housing and a package of support, building on what we learnt from our experiences with a similar scheme in Kent. We continue to explore alternatives and if we find one that works, we hope to make it the norm.

Every Detained Fast Track applicant has assured legal representation for the interview and decision stage, although the Legal Services Commission (LSC) require there be a merits test to determine representation at appeal. If a case has little merit, public money will not be spent on representation.

Detention is not automatically reviewed by the Courts. However there are regular reviews undertaken by the UK Border Agency as to the appropriateness of all detainees' detention, including those in the Detained Fast Track, and whenever there are changes in circumstances. All persons detained in the Detained Fast Track have the same right to apply for bail as other detainees.

Detention is integral to the Detained Fast Track process to facilitate the speedy resolution of claims deemed to be straightforward and capable of early resolution. The list of categories of vulnerable asylum seekers deemed not to be suitable for the detained fast track is robustly applied.

We do not accept ECRI's reported comment that NGOs consider the purpose of detaining people in the Detained Fast Track is to prevent individuals from establishing contacts in British society. Its purpose is to facilitate the speedy conclusion of asylum claims which are considered to be straightforward and capable of early resolution.

Support and permission to work

The UK Government does not have a policy of destitution. Our asylum support policy is properly balanced. No person who has sought protection need be destitute while they have a valid reason to be in the United Kingdom.

Asylum seekers who need support to avoid destitution are given it from the time they arrive in the UK until their claim is fully determined (appeal rights exhausted). Support takes the form of accommodation or subsistence or both. Support is given to single people or childless couples who do not apply for asylum as soon as reasonably practicable after their arrival in the UK if it is needed to avoid a breach of their human rights.

When an asylum seeker has been found not to need protection it is our policy to discontinue providing support. We do not consider that it is right to ask the UK taxpayer to continue to fund those who choose to remain here when they have no grounds to stay and it is open to them to return to a home country that has been found safe for them to live in.

The availability of support for failed asylum seekers is therefore necessarily restricted to narrow categories with appropriate safeguards built in for vulnerable people. This includes families with dependent children under the age of 18 years who continue receiving support until they leave the UK; for children and vulnerable adults qualifying for local authority care provision under the National Assistance Act 1948 and for people who are temporarily prevented from leaving the UK through no fault of their own who are provided with accommodation and subsistence support if they would otherwise be destitute

Giving asylum seekers, or failed asylum seekers, permission to work would also be likely to encourage asylum applications from those without a well founded fear of persecution, hence slowing down the processing of applications made by genuine refugees and undermining the integrity of the managed migration system. However, asylum seekers who have been waiting 12 months for a decision may be permitted to work where this delay cannot be attributed to them. Allowing asylum seekers to work in these circumstances is in accordance with the EC Directive on the reception of asylum seekers.

People who are accepted as refugees in the UK are permitted to take employment (see also comments on the Refugee, Integration and Employment Service under 'Integration').

Healthcare

Access to healthcare should not be a problem for asylum seekers awaiting a final decision. Asylum seekers awaiting a decision on their claim are eligible for both primary and secondary National Health Service (NHS) treatment free of charge. Those supported by the UK Border Agency are offered a health check in their initial accommodation and assisted in registering for primary care on dispersal.

Refused asylum seekers may be registered for free primary care at the General Practitioner's discretion and continue to have free access to hospital Accident and Emergency departments and some other services including TB treatment and other

specified infectious diseases, family planning and HIV testing. A course of hospital treatment begun before appeal rights are exhausted can be continued free of charge until they leave the UK and it is for a clinician to determine what constitutes a course of treatment. Other immediately necessary or urgent treatment including all maternity care should never be denied even if chargeable.

The Department of Health in England and Home Office have just published a joint review of healthcare for foreign nationals in England including asylum seekers (and failed asylum seekers). There are no proposed changes with regard to the existing position on healthcare for asylum seekers whose claim (including appeal) remains under consideration and GPs will continue to have discretion to register any patient. However it is recognised that there is a case for extending the exemption from charges for hospital treatment to failed asylum seekers who are continuing to be supported by the UK Border Agency because they have children under the age of 18 years or are unable to return home for reasons beyond their own control. This proposal will be included in a public consultation in autumn 2009. Failed asylum seekers in Wales continue to be exempt from all charges for NHS treatment.

Integration

Accommodation is provided to asylum seekers who are eligible for support on a "no-choice" basis in areas of the country where there is a steady supply of housing. It is provided under a series of "target contracts" which the UK Border Agency has entered into with both public and private sector housing providers which means that non-detained asylum applicants are not in any way "separated" from the wider UK society.

We recognise and welcome the very great contribution that people who are found to be refugees continue to bring to the UK. The Government places a great emphasis on the importance of an integrated and cohesive society and it is important that those who qualify for refugee status are enabled to integrate and enjoy the rights and responsibilities of living in the UK. With this in mind, the Refugee, Integration and Employment Service (RIES) was rolled out across the UK in October 2008 to support individuals over the age of 18 years who have been granted refugee status or humanitarian protection. The service is designed to help with the transition from asylum seeker to refugee including with the registration for mainstream benefits and services to which individuals become fully entitled following recognition of refugee status.

Treatment of asylum seekers

The UK Government does not accept the claim that asylum seekers are being treated like criminals.

There is a fair process for assessing all asylum claims. The UK has worked with the UNHCR for several years on a Quality Initiative Project examining aspects of the asylum process. Feedback from UNHCR about engaging with the UK in this way has been positive. Furthermore, the UK operates the Gateway Protection Programme for the resettlement of refugees referred by UNHCR and has introduced new arrangements to assist the integration of people recognised as refugees in the UK.

The Refugee Integration and Employment Service provides a standard level of transition support to all new refugees granted by our regional asylum teams – meeting our promise to complete the end-to-end asylum case ownership model and providing a practical route to integration and citizenship. As well as assisting with immediate integration issues such as support with housing and language, the Refugee Integration and Employment Service is focussed on ensuring that refugees are in a position to enter employment as quickly as possible following recognition of their status.

The UK Government has taken legitimate steps to counter abuse of the asylum process by those people who seek to remain in the UK when they have no valid right to do so, for example by frustrating the return process through the destruction or disposal of their travel documents. Our actions are in line with meeting our international commitments.

Migrants (paragraphs 180-186)

Unfortunately a number of migrants seek to enter or remain in the UK in breach of immigration law, and to this effect they commit criminal offences. It is already the case, under section 24(1)(b) of the Immigration Act 1971, that a person who fails to renew their visa in time commits the criminal offence of remaining beyond the time limited by their leave. In many cases the UK Border Agency does not pursue criminal proceedings but, where appropriate, takes administrative action to remove the person as an alternative option. We are proposing to simplify a number of different processes for removing persons from the UK, so that a single process of "expulsion" will apply to all persons, regardless of whether they are refused admission to the UK at ports of entry, enter illegally, overstay their permission to be in the UK, or are removed after committing criminal offences in the UK. However, there will be a flexible approach to prohibiting the return of someone who has been expelled from the UK, based on the reason for the expulsion, so that persons who have been convicted of serious criminal offences face a longer ban on returning compared to persons who overstay their visas.

In respect of 'immigration bail', we are proposing to consolidate several existing powers to release individuals, subject to reporting restrictions, into a single power. This will simplify the arrangements and will make them more easily understood by the people subject to them. The proposals do not change the presumption in favour of liberty. Furthermore, the proposals preserve the right of people who are refused bail to make an application for bail to the Asylum and Immigration Tribunal. All detention decisions taken by the Secretary of State can also be subject to the scrutiny of the High Court.

The senior judiciary have an obligation to ensure that cases are managed in the best interest of justice. They have made it clear that not all asylum and immigration cases currently heard in the higher courts require scrutiny by the most senior judges. A limited number of cases will therefore be heard in the Upper Tribunal, where they will be heard by judges of the High Court, Court of Session or Court of Appeal or other judges specified by the relevant Chief Justice, where the Senior President of the Tribunals agrees.

Section 19 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 applies to marriages which are to be solemnised on the authority of certificates

issued by a superintendent registrar, where a party to the marriage is subject to immigration control. It requires those who do not hold an entry clearance expressly for the purpose of marrying in the UK to seek the permission of the Secretary of State prior to marrying in the UK unless the person falls within a class prescribed in regulations (i.e. persons present and settled in the UK). The Certificates of Approval for Marriage scheme is operated pursuant to Section 19 and is aimed at identifying those who seek to enter into a marriage of convenience for the purpose of circumventing immigration control. The House of Lords in the case of Baiai and others v SSHD ([2008]UKHL53) found Section 19 to be capable of operating consistently with the right to marry guaranteed by Article 12. However, their Lordships found that a fee fixed at a level which a needy applicant cannot afford may impair the essence of the right to marry. The UK Border Agency suspended the fee in April 2009.

The Certificate of Approval scheme in its current form, however, does not apply to those who marry according to the rites of the Anglican Church in England and Wales. In the High Court, Silber J (Baiai v SSHD [2006]EWHC823(Admin)) found this to be unjustifiable religious discrimination, in breach of Article 14. The UK Government is committed to remedying this incompatibility and announced on 12 November 2009 that it would be bringing forward a Remedial Order under the Human Rights Act 1998 to withdraw the Certificates of Approval scheme.

VII. OVERALL STRATEGIES TO FIGHT AGAINST RACISM AND PROMOTE COMMUNITY COHESION

The past decade has seen extraordinary progress towards greater racial equality in the UK. The Government has led a transformation in the way that public services work, spearheaded by the Race Relations (Amendment) Act in 2000. In turn, this has utterly changed the standards that Black and minority ethnic communities can expect from public services, whether in education, in health care, or in the criminal justice system. No-one working in public services in the UK today can turn a blind eye to racism or inequality. Every single public service and every single public body has to positively promote race equality and better race relations.

For example, each and every school now has a race equality programme, complemented by national programmes like the Black Pupils Attainment Strategy. This has helped thousands of students to achieve their potential. Because of this, the gap between Bangladeshi pupils and their peers at GCSE level has been virtually eliminated, while Black Caribbean pupils have also made enormous strides forward. The Government has invested hundreds of community organisations to build up their leadership capacity and support their local contribution. In July 2009, the Government committed nearly £9 million to help this invaluable work.

The Government has also promoted diversity across the public sector, with the result that there are more Black and Minority Ethnic people in senior leadership positions in the Civil Service than ever before. And we have concentrated our attention on the police and the criminal justice system, where we know that some of the challenges are most acute. The Government has made sure that the police take race and hate crimes as seriously as they should, as well as changing the way that the police are recruited and trained. Black and Minority Ethnic communities are now better represented in the police force and other criminal justice services and are increasingly confident that they will be treated fairly.

The Government has a total commitment to this work as part of its wider efforts to build a society free of bigotry and intolerance, prejudice and discrimination. The Government is determined that its new strategy for tackling race inequalities (as described in Section II above) should be sufficiently robust to accommodate changes to economic or indeed any other circumstances.

VIII. ANTI-TERRORISM LEGISLATION AND ITS IMPLEMENTATION

Counter-terrorism powers are aimed at terrorists, whatever their background. Stop and search under section 44 of the Terrorism Act 2000 is an important tool in the on-going fight against terrorism. As part of a structured anti-terrorist strategy, the powers help to deter terrorist activity by creating a hostile environment for would-be terrorists.

Terrorists may come from any ethnic background and to carry out stop and search based simply on a person's ethnicity would not only be discriminatory, it would be operationally naïve. Nonetheless, where there is information that terrorist activity is most likely to be carried out by a particular group, and members of that group are more likely to be from one or more particular ethnic backgrounds, it would be negligent not to take this into account as one of a number of factors to be considered (e.g. age, gender, demeanour, location, and anything being worn or carried). Terrorists can of course, change their modus operandi and police need to be able to adopt a flexible approach to using the powers.

The Police and Criminal Evidence Act (PACE) Code A: Stop and Search and the National Policing Improvement Agency guidance set out that it makes it unlawful for police officers to discriminate on the grounds of race, colour, ethnic origin, nationality or national origins when using their powers.

We are however aware that sections of the community — in particular Muslim communities — are concerned about the use of the powers. Countering the terrorist threat and ensuring good community relations are interdependent and we are continuing to work with the police to ensure that the use of section 44 powers strikes the right balance. Counter-terrorism powers are aimed at securing the safety of all UK society.

As part of the Government's CONTEST framework, the Home Office engages in regular community engagement at operational and strategic levels. All legislation including the recent Counter-Terrorism Act 2008 involved a full impact assessment and consultation period with local communities.

Revised national guidance for police on the use of section 44 powers was issued to all forces by the National Police Improvement Agency in November 2008. The guidance deals comprehensively with community engagement and assessment of the community impact of section 44 powers. It also explains the background and purpose of section 44 powers, the different circumstances in which they might be used and the approach to take depending on the information and intelligence available.

Lord Carlile of Berriew QC is the Independent Reviewer of Terrorism Legislation, producing an annual report on his findings on the operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006. This is an important objective and fully self-determining analysis of how the legislation has been used during the year.

Lord Carlile was also appointed Reviewer of the control order provisions of the Prevention of Terrorism Act 2005. Due to Lord Carlile's report on "The Definition of Terrorism" in 2007 the definition was amended in the Counter-Terrorism Act 2008 to include acts of terrorism motivated by racial causes, providing legal clarity on the issue of racially motivated terrorism.

Lord Carlile liaises with local communities to ensure he gains the views of all sectors of society on terrorism issues. His objective views are reflected in his reports and while he has raised concerns over the use of stop and search he states that: *'I am not in favour of repealing section 44. In my judgement section 44 and 45 remain necessary and proportional to the continuing and serious risk of terrorism'*.

Partly due to the concerns of local communities and Lord Carlile, the Metropolitan Police have implemented a more proportionate, targeted and risk driven Section 44 approach across all London boroughs, only targeting specific key areas which may be at risk. This new approach has recently seen a drop in stop and search within the Metropolitan area by at least 40%. There has also been a Home Office review in improving the oversight into section 44 authorisations, in August 2009 the Home Office issued a national circular clarifying section 43, 44 and 58A and the Metropolitan Police have issued local guidance illustrating the situation for their officers.

Legislation is under regular review. Before the Counter-Terrorism Act 2008 was introduced, a full detailed impact assessment was produced and a four month consultation involving over a hundred organisations took place, this included local communities, government departments, the police, the security services and prosecution services. Two consultation documents were created, and there were a number of reviews of the proposals by the Home Affairs Select Committee, and Joint Committee on Human Rights. In addition, there is ongoing dialogue between local communities and the Home Office, the Independent Reviewer of Terrorist Legislation and the police to ensure all the counter-terrorism legislation is being appropriately administered. Legislation also has to undergo post-legislative scrutiny within 3 to 5 years of the Act gaining Royal Assent.

Control Orders

The protection of human rights is a key principle underpinning the UK Government's approach to counter-terrorism. We need to safeguard individual liberty whilst maintaining our nation's security, including protecting the public from the risk of harm posed by individuals engaged in terrorism-related activity. This is a challenge for any government, but the UK Government has sought to find that balance at all times, including by introducing control orders.

The Prevention of Terrorism Act 2005 provides for the imposition of control orders on individuals suspected of involvement in terrorism-related activity, whether UK nationals or non-UK nationals, and whether the activity is international or domestic. Control orders are the best available disruptive tool for addressing the threat posed by suspected terrorists whom we can neither prosecute nor deport.

Control orders only affect an extremely small and targeted group of individuals. At the time of the Home Secretary's last quarterly Written Ministerial Statement to

Parliament on the exercise of his powers under the 2005 Act, covering the period from 11 June to 10 September 2009, there were only 15 control orders in force and only 44 individuals had ever been subject to a control order.

The UK Government understands the importance of ensuring that the counter-terrorism measures it puts in place are not discriminatory. Control orders do not discriminate against any particular nationality, race or religion. The Government does not impose control orders on discriminatory grounds – they are only directed against those involved in terrorism-related activity.

The Government has put in place extensive internal and external safeguards to ensure that there is rigorous scrutiny of the control orders regime as a whole – and that the rights of each controlled person are properly safeguarded. Each control order is subject to mandatory review by the High Court. The judge must agree that there is a reasonable suspicion that the individual is or has been involved in terrorism-related activity, and that a control order is necessary to protect members of the public from a risk of terrorism. Moreover, the High Court judge reviewing a control order specifically considers its compliance with the ECHR – in particular Article 5 (right to liberty), Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life). If any of these tests are not met in a given case, the judge can quash the order. A judge would never uphold an order if it was improperly imposed on a discriminatory basis including as a result of an individual's nationality, race or religion. No control order has ever been quashed by the courts on the basis that it did so discriminate.

As a result of various House of Lords judgments on control orders, the control order regime is fully compliant with the European Convention of Human Rights.

IX. CONDUCT OF LAW ENFORCEMENT OFFICIALS

We recognise that Stop and Search is one of the areas where racial disproportionality persists, and has one of the most detrimental impacts on Black and minority ethnic people's trust and confidence in the criminal justice system. That is why we have developed the diagnostic tool on Stop and Search, the Practice Oriented Package, to help police forces identify where disproportionality exists and address those issues. The Practice Oriented Package is currently being updated and will be piloted in three police forces in 2010.

The Scottish Government continues to work closely with police forces on Black and minority ethnic recruitment and retention. Whilst there is still much work to do, it is encouraging to note that the number of police officers in Scotland from Black and minority ethnic communities has more than doubled since 2002-2003.