

APPENDIX

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

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

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

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

“COMMENTS BY THE GOVERNMENT OF THE UNITED KINGDOM ON ECRI’S 3RD REPORT ON THE UK

INTRODUCTION

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

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

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

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

The Government has introduced further legislation to Parliament to:

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

*Delivering the Government’s vision of a successfully integrated society, that recognises and celebrates the strength in its diversity, must also be reinforced by a sense of belonging to the United Kingdom, underpinned by common human rights and shared values. The Government has therefore launched a Government wide **Community Cohesion and Race Equality Strategy** which forms the basis of a renewed programme of action across Government and more widely to build community cohesion and reduce race inequalities. The Scottish Executive will develop and publish a **Scottish Strategy** building on their recent Race Equality Review and set within the British framework. In Northern Ireland, the Government is finalising a **Race Equality Strategy for Northern Ireland**, which will be published in 2005 alongside the Government’s policy and framework on good relations.*

*In February 2005, the Government announced two important reviews, one of which will investigate the causes of persistent discrimination and inequality in British society. **The***

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

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

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

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

International legal Instruments (paragraph 4)

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

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

The UK's constitution is based on the premise that Parliament is sovereign. This is unlike the situation in other Council of Europe member states where a Bill of Rights cannot be amended by parliament. The Human Rights Act 1998 incorporates the ECHR into domestic UK law, but cannot provide the general superseding guarantees ECRI encourages. However, the Human Rights Act, coupled with the racial discrimination legislation as strengthened by the transposition of the EU Race Directive into domestic law, provide a robust legislative framework against racial discrimination. The Equality Bill, currently

before Parliament (March 2005) sets out a fundamental duty on the proposed Commission for Equality and Human Rights to create a society in which:

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

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

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

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

The Scottish Executive is committed to establishing a Scottish Human Rights Commission within the lifetime of the current Parliament. The key functions of the Commission will include: promotion, education and awareness raising; providing guidance to public authorities; advising the Scottish Parliament on legislation after introduction; general monitoring and reporting in relation to law and practice; and investigating and reporting on generic and sectoral human rights issues in relation to public policy. The Commission will be able to give general advice to members of the public on human rights issues, but it will not be empowered to investigate individual complaints or to support individual cases through the courts. However, the Commission will be able to provide information and advice on human rights issues to the courts in certain circumstances if requested to do so.

Citizenship legislation (paragraph 10)

The Government notes ECRI's comments about the importance of ensuring that legislation on citizenship is applied in a non-discriminatory manner. As ECRI notes, there have been no significant changes in the number of applications or the refusal rate since the entry into force of the Nationality, Immigration and Asylum Act 2002. To support those people seeking to meet the new requirements, the UK is introducing English language with citizenship courses. Applicants for these courses will be given an initial assessment and allocated to a course that is appropriate to their personal learning goals. There will be a

formal review of the effectiveness of pilot courses prior to them being made more widely available, including feedback from participants on the extent to which the programmes met their needs. The Government therefore believes that it has minimised any risk of direct or indirect discrimination occurring as a result of these measures but will keep the position under review.

Criminal law provisions

Racially aggravated offences (paragraph 13)

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

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

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

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

Following directly from recommendation 12 of the Stephen Lawrence Inquiry Report and the Association of Chief Police Officers in Scotland's Diversity Strategy, all police forces in Scotland have been working to develop a centrally collected, comprehensive reporting and recording system for racist incidents recorded by the police. This has been co-ordinated and led by the Scottish Executive and should provide the function necessary for analysis, profiling and action on racist incident data, looking at criteria such as time and day, location, age, gender, ethnicity, language and repetition. Data collection began on 1 January 2003 and regular publication will be a feature as the data are gathered and analysed.

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

Incitement to racial hatred (paragraph 15)

The Government notes this recommendation and the contents of ECRI General Recommendation No 7 but does not accept them. We regret that, in framing General Recommendation No 7, ECRI did not take sufficient account on the importance that is placed on freedom of expression and association in the legal traditions of some member states. The offence of incitement to racial hatred in the Public Order Act 1986 is a high level offence with a high penalty of up to 7 years' imprisonment. It thus has considerable deterrent value. The United Kingdom has a long tradition of freedom of speech, which allows individuals to hold and express views which may be contrary to those of the majority of the population and which many may find distasteful or even offensive. Successive Governments have held the view that they have the right to express such views

so long as they are not expressed violently or do not incite violence or hatred. It remains the cornerstone of UK Government policy that the criminal law should only come into play where there is the risk of real damage being done - of hatred and violence. We believe that our approach is right for Britain and its tradition and legal system. We do not believe there would be a consensus in Parliament or in the country for the Government to take on extensive additional powers to restrict freedom of speech.

Incitement to religious hatred (paragraph 17)

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

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

Blasphemy (paragraph 19)

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

Northern Ireland (paragraph 22)

The Northern Ireland Office has issues guidance on the newly enacted "Hate Crime" legislation to key stakeholders in the Criminal Justice system, including the Police Service of Northern Ireland, the Northern Ireland Court Service, the professional judiciary, the Office of the Director of Public Prosecutions, the legal profession as well as to the community and voluntary sector.

Prior to the legislation coming into effect;

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

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

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

framework with a view to creating a simpler, fairer law, probably through a Single Equality Bill.

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

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

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

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

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

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

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

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

Administration of justice (paragraph 34, 37)

The Government welcomes ECRI's encouragement of the Government's efforts to improve monitoring of Black and minority ethnic people's experience of the criminal justice system. Developing information that is accurate, informative and accessible is the crux of the fundamental review of Race and the Criminal Justice System statistics. This review is nearing completion and the collection of data on religion is one issue it is considering.

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

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

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

The Lord Advocate issued the Association of Chief Police Officers in Scotland (ACPOS) with Guidelines (updated in 2002) as to the reporting of racist incidents to Procurators Fiscal. These Guidelines require that the police reports must cover matters such as the victim's perception of the motivation behind the incident, the impact of the incident on the victim/ the victim's family/the victim's business, the language needs of the victim/witnesses/accused and also whether there is a need for translation of official documentation. COPFS carries out an annual monitoring exercise to assess how well this is done. Each of the 11 Procurator Fiscal Areas in Scotland has an Area Diversity Team that carries out liaison with minority ethnic communities in their Areas. Several of these teams have representatives from other criminal justice agencies to try to ensure a consistency of approach. The Working Group on Interpretation and Translation (WGIT) was set up and is chaired by the COPFS. WGIT has members from ACPOS, the Law Society of Scotland, the Scottish Court Service and the Scottish Legal Aid Board. WGIT is seeking to try to establish levels of fees, vetting and monitoring that will be standard throughout the Scottish criminal justice system. Procurators Fiscal have firm guidance as to how to mark and prosecute racial cases. These include a presumption in favour of prosecution of such cases and the direction that once a prosecution has commenced for such a case, the

racial element of a charge cannot be excluded where there is still sufficient evidence prove that aspect of the charge. The COPFS has developed a Diversity Awareness Programme whereby all members of COPFS staff must attend a 2 day Diversity Awareness course. The COPFS' Race Equality Action Plan and Diversity Action Plans are both published along with other useful information on the COPFS web site.

Legal aid (paragraph 39)

England and Wales

The Government does not accept that blanket availability of legal aid in employment tribunal cases is necessary. Employment tribunal procedures are designed so that people can prepare and present their own cases, and there is an established tradition of advisers who are not legally trained, whether trades unions, friends, colleagues or other sources of advice. Those bringing cases alleging discrimination may also seek advice, and in some cases receive representation, from the equality commissions (currently the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission which will, in the future, come together under the umbrella of the Commission for Equality and Human Rights). Funding for general legal advice (falling short of advocacy) is already available under the Legal Help scheme. In addition, the Lord Chancellor has the power, on receipt of a recommendation from the Legal Services Commission, to authorise "exceptional funding" for representation under the Access to Justice Act 1999 s.6(8)(b) in those few cases where representation may be essential for a fair hearing, and where no other sources of help can be found. It is worth noting that, although "exceptional funding" has been available since April 2000, the Legal Services Commission have found it appropriate to recommend very few applications to DCA in employment tribunal cases, and only three in 2004. Full Representation is available for cases brought in the Employment Appeal Tribunal.

Scotland

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

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

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

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

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

Equality Commission for Northern Ireland (paragraph 43)

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

Education and awareness training (paragraph 45)

England and Wales

The framework for Citizenship in primary schools was introduced in September 2000. So, contrary to the implication of ECRI's recommendation, this is already in place at primary level. The National Curriculum includes an overarching access statement covering the Curriculum as a whole emphasising the specific opportunities to address issues of race and racial equality. Teachers are expected to take specific action to respond to pupils' diverse needs, including, for example, creating effective learning environments in which racial differences are seen positively by pupils, and whereby negative stereotypes and racial harassment is challenged.

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

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

Scotland

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

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

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

Reception and status of non-citizens

Immigration (paragraph 50-51)

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

The Race Relations (Amendment) Act was a crucial piece of legislation. It outlawed, for the first time, racial discrimination by public authorities, including the police and immigration authorities. It was therefore a major step forward in the fight against discrimination. The exemption of the immigration functions is a limited one. Operating immigration controls inevitably involves differential treatment on the basis of nationality and, less frequently, ethnic or national origin. For example: visa regimes on certain countries; free movement rights for European Union citizens; and immigration rules giving preferential treatment to Commonwealth citizens.

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

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

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

Right to marry (paragraph 52)

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

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

Access to education

England and Wales

Achievement and Monitoring Data (paragraph 57)

In January 2002 the Department for Education and Skills introduced the Pupil Level Annual School Census (PLASC) in schools in England. PLASC allows pupil level data such as gender and ethnic background to be cross-referenced to other data such as achievement data. This applies at school, local education authority and national levels. Revised ethnic

background categories that reflect those used in the 2001 national population census were introduced in January 2003. Data on the achievement of pupils by ethnic group and gender are among the data now published annually by the DfES. Published data is at national and local education authority level and includes both primary and secondary phase data. These data directly inform national and local education strategies. All local education authorities have to include in their Educational Development Plans their strategies to raise the educational achievement of minority ethnic pupils including those pupils whose first language is other than English.

Targeted Funding

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

Support for Bilingual Learners.

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

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

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

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

The Government is wholly committed to promoting equality of opportunity in schools and closing the educational achievement gap that exists between some groups of minority

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

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

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

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

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

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

Scotland

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

Recruitment and retention of teachers (paragraph 58)

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

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

Segregation in schools (paragraph 59)

England and Wales

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

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

A better solution, and one which is consistent with Cantle's other proposals, is to get schools with different cultural compositions to find ways of enabling the pupils to mix. This was put forward in the Denham Report¹, which set out Government policy on promoting community cohesion. Key elements of the strategy for education are strengthening the links between schools through a variety of partnership arrangements, and between schools and their communities by encouraging schools to act as resources for the whole community.

However, there separately have been some modifications to schools admissions policies. The Education Act 2002 made Admissions Forums mandatory from 31 January 2003 to promote local discussions between all those with an interest in admissions. They will consider how well admission arrangements serve the interests of local parents and children and will aim to reach a consensus on how best to meet the needs of all those seeking a place in their area so that all pupils have a fair opportunity. Their remit includes considering how well existing and proposed admission arrangements serve the interests of local children and parents. They have the power to advise admission authorities about any aspect of their arrangements and admission authorities must have regard to that advice.

Scotland

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

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

Northern Ireland

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

Access to health (paragraph 61)

England and Wales

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

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

Scotland

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

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

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

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

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

Employment (paragraph 64)

England and Wales

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

1: Lack of human capital - such as skills, qualifications and experience

2: Geography, including residency in deprived areas

3: Employer Discrimination

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

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

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

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

Scotland

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

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

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

Northern Ireland

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

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

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

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

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

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

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

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

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

The Home Office core funds the Inter Faith Network for the UK, which has worked with the Local Government Association to issue guidance to local authorities on involving the faith communities in local decision making. The Inter Faith Network has also produced valuable guidance to those wanting to set up local inter faith groups and on inter faith

activity for young people. It has also produced a directory of inter faith groups, of which there are now around 200. The development of local inter faith structures, bringing together representatives of different faith communities in a local authority area, provides a valuable framework both for promoting mutual understanding and co-operation between them.

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

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

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

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

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

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

Northern Ireland (paragraph 76)

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

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

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

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

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

Government is also aware of the need to go beyond a criminal justice response to tackle the conditions that give rise to - but can never be an excuse for - racist attacks and incidents. The underlying causes of racist violence in Northern Ireland are complex and inter-linked. In considering them, it is important to take account of the legacy of over 30 years of violence and conflict. The conflict in Northern Ireland has created patterns and attitudes - such as residential segregation and heightened territorial awareness - that now adversely affect minority ethnic communities.

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

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

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

Good Relations Policy

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

Northern Ireland Race Equality Strategy

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

Migrant Workers

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

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

Irish Travellers

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

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

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

The Department for Social Development and the Department for Regional Development have made progress with a multi-agency approach, putting in place accommodation strategies recommended by the Promoting Social Inclusion (PSI) Working Group on

Travellers and improving key relationships between Travellers and agencies such as the Northern Ireland Housing Executive.

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

The media (paragraph 79)

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

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

Stephen Lawrence Report (paragraph 82)

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

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

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

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

Stop and search (paragraph 84)

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

SSAT's governance structure uses a Delivery Board and Community Panel to take forward its work programme. The Delivery Board is co-chaired by Doreen Lawrence. The Board ensures that SSAT delivers against its work programme as well as providing expert and professional advice. The Community Panel is chaired by Lord Adebowale and has been formed exclusively of independent members. The Panel provides advice to SSAT and the Delivery Board on the race and community impact of its work programme, and acts as a scrutiny panel for the work of SSAT.

SSAT's work programme focuses on three areas:

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

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

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

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

Police complaints bodies (Paragraph 86)

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

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

Deaths in custody (Paragraph 88)

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

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

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

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

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

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

Police training (Paragraph 91)

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

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

by 2009. Performance will also be assessed at individual, team, force and service-wide level.

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

Police recruitment and retention (Paragraph 92)

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

Community Cohesion and Race Equality Strategy (Paragraph 94)

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

Ethnic monitoring (Paragraph 96)

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

Racist organisations (Paragraph 98)

The Government has noted ECRI's comments about the exploitation of racism in politics. The Government rejects racist discourse in political life, but this is of course a matter for individual politicians and political parties. We have noted ECRI's recommendation No 7 on this subject, but this represents an unacceptable restriction on the freedom of political association. There is a long-standing tradition of freedom of association and political organisation in the United Kingdom. The Government accepts that this right is not absolute and a number of organisations are proscribed for terrorist activity, but we do not accept that organisations should be banned simply for espousing views that are

unpleasant or offensive. It has not been our tradition to ban political parties or organisations simply because they express views that we would all find abhorrent. The Government believes that the answer is to vigorously challenge racist views through the democratic process.

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

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

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

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

The Terrorism Act 2000 (Paragraphs 105 - 107)

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

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

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

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

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

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

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

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

Asylum-seekers (Paragraphs 112, 114)

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

asylum seekers and refugees. This in turn can lead to tensions in some communities, particularly where dispersal has seen the introduction of new groups of asylum seekers and refugees to an area.

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

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

The Immigration and Nationality Directorate publishes an “Asylum Fact Sheet” (http://www.ind.homeoffice.gov.uk/ind/en/home/applying/asylum_applications/asylum_fact_sheet.html) and sends copies as appropriate to members of the public in response to queries. The fact sheet emphasises the Government’s commitment to ensuring that this country adheres to its obligations under the 1951 Refugee Convention and the European Convention on Human Rights, and that those who are fleeing persecution are given the protection they need, but equally that the Government is determined that those who attempt to abuse this country’s immigration and asylum system are dealt with quickly and removed.

The UK Asylum System

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

Non-suspensive appeals

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

In practice a decision to certify will only be made if a caseworker and senior caseworker are satisfied that the claim is clearly unfounded, following detailed examination of the individual claim. Asylum and human rights claims that are certified as clearly unfounded

have no in-country right of appeal. In all such cases, however, it is open to the applicant to seek a Judicial Review of the decision to certify his or her claim. In such circumstances, the claimant will not be removed from the UK before the outcome of the Judicial Review is known. If the claimant succeeds at Judicial Review, then he or she will not be removed from the UK. The UK periodically reviews the list of countries that it regards as generally safe, and the list is subject to approval by Parliament.

Removal to “safe third countries”/non-refoulement

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

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

Quality of decision-making

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

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

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

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

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

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

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

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

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

Support for asylum-seekers (Paragraph 116)

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

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

desperate people fleeing for their lives will claim asylum as soon as they can and we will continue to support those who do so.

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

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

We have kept the operation of section 55 under review since it was first introduced and we will continue to do so, working with stakeholders. The full implications of the House of Lords' judgment - which concerns the issue of when it is necessary to provide support to an asylum seeker who has not claimed asylum as soon as reasonably practicable in order to prevent an ECHR breach - will be considered and the options for the future will be examined when the judgment is handed down.

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

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

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

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

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

Importantly, we anticipate children spending only a few months in an accommodation centre. The Nationality, Immigration and Asylum Act 2002 places a six month time limit on the period applicants may be required to remain in a centre, extendable to a maximum of nine months in certain, limited, circumstances. It is our firm intention to process claims within that timescale but it, after that time, their cases have not been concluded, applicants will be moved out of the centres into a dispersal area where their

children will be able to access mainstream education. The education they will have received in an accommodation centre will ensure that those children, along with those whose parents are granted refugee status, or otherwise given permission to remain in the UK, will be well placed to make the transition to mainstream schools. Those who have no basis of stay and who will be leaving the UK will nevertheless have received a worthwhile education which will assist them in their country of origin.

Detention of asylum-seekers (paragraph 118)

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

Use of prisons

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

Judicial oversight

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

Detention of Families

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

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

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

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

expeditiously as possible and are subject to rigorous internal review to ensure that the period of detention is kept to a minimum.

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

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

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

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

England and Wales

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

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

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

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

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

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

The Office of the Deputy Prime Minister is taking steps to address the lack of ethnic data that is available on the Gypsy and Traveller population. From 2005, the annual Survey of English Housing, which is carried out on behalf of the Government by the National Centre for Social Research, will include data on the Gypsy and Traveller population. The information provided by the Survey will go some way to improving our knowledge of Gypsies and Travellers who reside in bricks and mortar accommodation.

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

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

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

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

Scotland

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

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

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

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

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

The Scottish Executive has recently commissioned a consortium of researchers to carry out initial research which will inform the planned consultation on ethnic identity

classification. The study has been designed to be as inclusive as possible and will seek to include the views of respondents from both majority and minority ethnic communities, including Gypsies/Travellers. It is expected to report by the end of March 2005.

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

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

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

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

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

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

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

A national Gypsy/Traveller Roundtable Network was set up by the National Resource Centre for Ethnic Minorities Health in January 2003 to identify priorities and develop an action plan around four key areas: extension of good practice models nationally; community-led national health needs assessment; production of health promotion materials in accessible formats; employment of a community researcher to develop the action-based research.

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

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

Northern Ireland

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

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

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

with work-space provision using established criteria to facilitate the site selection process."

**HOME OFFICE
UNITED KINGDOM
March 2005**