



Harshbir Sangha
Specific Duties – Policy review
Government Equalities Office
Zone J9, 9th floor
Eland House
Bressenden Place
London SW1E 5DU

12 April, 2011

THE PUBLIC SECTOR EQUALITY DUTY: REDUCING BUREAUCRACY

Dear Harshbir,

BTEG and the newly set up BAME Policy Forum welcomes the entry into force of the new Public Sector Equality Duty (PSED), which we believe is an important step towards a proactive approach to advancing equality of opportunity and to eliminating unlawful discrimination. We also appreciate the efforts of Government to improve equality outcomes on the ground and to reduce burdensome bureaucracy and red tape. In light of these we would like to respond to the proposed new draft regulations imposing specific duties to support better performance of the PSED, set out in the policy review paper of 17 March, 2011.

Coordinated by BTEG, the views on the policy review paper have been drawn together from the BAME Policy Forum members. As listed below, the group currently consists of 13 members from BAME-led organisations from across England working on race equality issues. Many of the organisations have been partners in the ROTA-led Winning the Race Coalition, which has worked over the duration of all stages of the Equality Act to highlight some areas of concern in relation to the Act focussing primarily on race equality and the discrimination faced by BAME groups.

This response is informed by:

- Views and opinions of the BAME Policy Forum members. A discussion event held with members on 29 March 2011.
- Winning the Race Coalition positions papers on the Equality Act 2010¹

¹ The ROTA-led Winning the Race Coalition's activities, list of members and position papers on the Equality Act 2010 can be found here:

http://www.rota.org.uk/pages/WTRC_ActsSubsPubs.aspx

Accountability and transparency

Our key concern relate to the significantly reduced accountability of public sector bodies and of their operations impacting on equality outcomes. By removing the requirements on public bodies to publish details of the:

- 'engagement they have undertaken when determining their policies;
- engagement they have undertaken when determining their equality objectives;
- equality analysis they have undertaken in reaching their policy decisions; and
- information they considered when undertaking such analysis'

all democratic scrutiny of public bodies will be lifted. Improving transparency through the requirement of publishing accessible data on public bodies' impact on equality was a key objective the Coalition Government set out in August 2010 and is essential to hold public authorities accountable. By removing the requirement to publish evidence of the information it considered and the analysis it undertook to reach decisions that have profound effects on equality outcomes it is not clear how the democratic values of transparency and accountability will be guaranteed. The policy review paper states that 'we have considered each of the changes carefully and are satisfied that none of them will have a negative effect on equality for any of the protected characteristics' but does not give any evidence or rationale of how this decision was reached, and what information were considered that informed this significant change since August 2010. Done effectively and in a way that is accessible to all interested parties, the publication of transparent, reliable, evidence-based and accessible data and information are the very means to deliver equality improvements on the ground, and are essential mechanisms to ensure local and national democratic accountability. If the requirement to publish engagement and equality analysis does not occur through the specific duties, then communities will be forced to put in costly and bureaucratic Freedom of Information requests to obtain this information from public bodies. This will add cost, waste time and create a conflicting approach for BAME communities which could be easily solved through more prescriptive specific duties.

Liberating public bodies from burdensome and bureaucratic processes are to be welcomed, but this effort cannot lead to the detriment of accountability and of equalities. There is a real risk that by removing any requirement of sharing information and analysis when identifying and setting priorities, the decisions taken will not be based on and informed by sound evidence and thus will not have the desired impact on equality outcomes. Furthermore, the vision of the Big Society, where national and local government is held accountable through a public that is enabled to exercise greater choice and power will also be undermined.

Community engagement

The right to challenge is one of the three key actions envisaged to help the Big Society to flourish. Individuals and communities are to gain more power and responsibility to create better neighbourhoods and local services. The policy review paper however sets forth to 'remove the requirement to publish details of the engagement the public authority undertook with persons whom it considered to have an interest in furthering the aims set out in section 149(1) of the Act, and details of the engagement it undertook when developing its equality objectives'. Without requiring the publication of evidence of engagement and consultation and considerations of due regard, the mechanisms through which individuals and communities will be able to exercise their right to challenge and engage are at risk. The BAME communities we represent have historically faced a range of difficulties in maintaining a strong voice at policy-making tables. Due to limited financial and human resources exacerbated by the cuts in public sector spending that might lead to many BAME support organisations disappear it will be even more important to widen the official and legal channels to engage and challenge. Again, the policy review paper states that tools and mechanisms will be developed to support organisations and individuals to challenge public bodies effectively, but does not advise on the ways in which it will be done and on how hard-to-reach groups will be consulted on in developing these mechanisms. Individuals and communities, in particular those with protected characteristics have a vested interest in taking part in the decision-making processes that have a profound impact on their lives, in understanding the rationale behind decisions and in identifying and recommending proposals to eliminate any unintended direct and indirect discrimination that may result from decisions. Lacking access to data and evidence-base that informs local councils' decision-making in the next four year cycle, individuals and groups who are willing to engage with local and national decision making will not be able to get involved in shaping policy priorities and lobby local councillors and MPs.

We believe that it is particularly important to protect the tools and mechanisms already in place that enable individuals and communities to hold public authorities to account and to engage in decision-making processes in order to support better performance of the Public Sector Equality Duty. We therefore urge Government not to proceed with the proposals set out in the policy review paper.

Jeremy Crook, OBE
Director, BTEG
On behalf of the BAME Policy Forum

About BTEG

The Black Training and Enterprise Group (BTEG) is a national charity providing a voice to government for Black, Asian and Minority Ethnic (BAME) voluntary, community and social enterprise organisations. BTEG has a successful track record of advising government departments and non-departmental bodies and providing organisational support for local groups. BTEG is a member of several central government advisory groups including Department of Works Pension's (DWP) Ethnic Minority Advisory Group, the Department for Education's Third Sector Group and Communities and Local Government's Voluntary and Community Sector Board.

About the BAME Policy Forum

BTEG, Voice4Change England (V4CE) and other national and local BAME-led organisations formed a policy forum to discuss policy and legislative initiatives with particular relevance to BAME communities and to develop positions and an effective voice to our concerns at local and national policy making tables, as individual organisations and as a coalition on specific issues. Member organisations have been working on ensuring that the needs of BAME communities are met and have been engaging with key stakeholders at the local and national levels. The need to work in collaboration and partnership, and to exchange views and formulate common concerns, as well as developing effective policy influencing skills has been an important outcome of BTEG's Local Engagement Programme, which focused on strengthening local BAME networks and was funded by the Tackling Race Inequalities Fund, and the Strengthening Our Voices project, a joint initiative with V4CE, funded by the Big Lottery Fund.

The following organisations are members of the BAME Policy Forum:

1. Association of Panel Members
2. Council for Ethnic Minority Communities
3. Barnardo's
4. Black Disabled People's Association
5. Black Training and Enterprise Group
6. Friends, Families and Travellers
7. Leicester Ethnic Minority Partnership
8. Merton Unity Network
9. Oxfam UK
10. ROTA
11. Runnymede Trust
12. Southern African Children and Families Welfare Association
13. Sunderland BME Network