

The impact of the Racial Equality Directive:  
a survey of trade unions and employers  
in the Member States of the European Union

United Kingdom

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## 1. Demographic background

The total population of the United Kingdom is 61m according to mid-2007 estimates by the Office for National Statistics. Ever since the 1981 Census people have self-identified their skin colour and region of origin. It is known, therefore, that the population is largely 'White British', 86 per cent. Another 5 per cent describe themselves as 'White other' - predominantly from Europe, the US or the former Commonwealth - leaving nearly one in ten of the population visibly not 'white'. The largest groups of migrants in the UK came from India, Pakistan, Ireland, the Caribbean, Africa - south of the Sahara, Bangladesh, other Asian countries and from China. The UK population has been highly diverse for around 50 years.

A report published by the UK Home Office in 2003 (*Labour market performance of migrants in the UK labour market*) highlighted that about one third of all working age migrants have arrived over the last 10 years. The composition of new arrivals over the last half century has changed considerably, with many more of the recent arrivals coming from Europe, both EU and non-EU countries. In the year 2000, foreign-born individuals constituted about 9 per cent of the working-age population in the UK. Many migrants arrive at a very young age: of the working age population in 2000, about 30 per cent had arrived before the age of 16.

Migrants are heavily concentrated in the capital. The concentration of foreign-born individuals in London increased significantly between 1979 and 2000. In 2000, 9 per cent of UK-born whites of working age lived in London, compared with 40 per cent of the foreign-born, and 45 per cent of UK-born non-white ethnic minorities (Home Office 2003).

Employment and participation rates of foreign-born ethnic minority individuals are considerably lower than those of UK-born whites. These differences have increased substantially since 1979. Employment and participation of minority migrants is more volatile over the economic cycle. The labour market performance of foreign-born white migrants is very similar to that of UK-born white individuals. Women from the Bangladeshi and Pakistani communities have the lowest participation rates among ethnic minority individuals, although many of these escape statistical capture through being undeclared 'home-workers'.

Ethnic minority migrants have on average lower employment probabilities, with Pakistanis, Black Africans, and Caribbeans being the most disadvantaged. This is true for both men and women. Self-employed migrants are strongly concentrated in some sectors. Concentration differs according to origin. One out of two self-employed migrants from ethnic minority communities works in the Distribution, Hotel and Restaurant sector (compared to one in six in the UK-born white population). White migrants are concentrated in the construction and the distribution, hotel and restaurant sectors. Compared to UK-born whites of same characteristics, white male migrants have slightly higher probabilities of being self-employed. There is large variation across minority migrants: while Pakistanis, Afro-Asians and Chinese are more likely to be self-employed, Caribbeans and West Africans are less likely to be self-employed, compared

to white UK-born individuals.

For wages, there is a dividing line between white and non-white migrants. While individuals from most white migrant communities have on average higher wages than UK-born whites with the same characteristics, migrants from all ethnic minority communities have lower wages. This is true for both males and females, with differences being more accentuated for males. Wage differentials are substantial, with male Bangladeshis earning some 40 per cent less than UK-born whites.

## **2. Industrial relations background**

The industrial relations in the UK changed dramatically during the 1980s and 1990s. Recessions, 'New Right' politics and privatisation, restrictive legislation on industrial action and massive restructuring in many organisations all considerably reduced the influence of unions.

The last decades were thus a period of sustained decline of trade union bargaining power, membership, and coverage. This decline was caused not only by the aggressive reforms of the Thatcher era but also by changes in the composition and opinions of the workforce, greater employer hostility, and the organisational deficiencies of the unions themselves. Union membership fell by 5.5 million and density from more than half to less than one-third of the workforce. Data from the 2004 Workplace Employee Relations Survey show that collective bargaining coverage halved from around 70 per cent to 37 per cent in the last two decades. This indicates that while the coverage might still be strong in some sectors, notably the public sector, it is increasingly patchy overall and considerably weaker in the private sector. Only 50 per cent of employees are today employed in a workplace with a recognised union.

In the private sector, only 16 per cent of workplaces have a recognised union. Trade union membership density rate in this sector is 17 per cent and coverage rate is 20 per cent. Although there are some signs of a slowdown of this decline since 1997, there is no real growth. Regarding union representation it can be said that the industrial relations system is now characterised by extensive non-unionised zones. This trend has been complemented by an increase in the legal regulation of the industrial relations system (Brown et al, 2009).

In addition to the development of the minimum framework of rights for trade union recognition and workplace representation, regulations introduced include the implementation of a wide range of individual employee rights (for example on minimum wage or working time). This new approach is being substantially shaped by EU influence and the UK adaptation of the EU social directives.

Unlike the position in many other countries, collective agreements are not legally binding in the UK. Consistent with the traditional notion of voluntarism, they have moral force only, but in practice are no less successful for that. Contents of collective agreements are often subsequently included in individual employment contracts, which are then

legally enforceable.

Traditionally, collective bargaining was at three levels: sectoral, company, and plant or shop floor. Bargaining at the level of the whole economy has never been dominant. Collective bargaining at sector level has all but disappeared in the private sector. However, it remains strong in the public sector, with 75 per cent of employees covered by collective bargaining agreements and more than 33 per cent of workplaces covered by multi-employer bargaining. Collective bargaining at plant or shop floor level has also become less important than it was from the 1950s to the 1970s. Thus most collective bargaining now takes place at company level.

According to the UK 2004 Workplace Employment Relations Survey (WERS) only 35 per cent of British employees are covered by a collective agreement, compared to 70 per cent on average in Europe. In the private sector, this coverage rate is even lower (20 per cent), according to Labour Force Survey data. Only 11 per cent of private-sector workplaces engage in any form of collective pay bargaining.

The industrial relations system is increasingly characterised by a formalised system of individual grievance procedures. The volume of individual litigations and employment tribunal cases increased considerably in the 1990s. Laws were introduced to streamline this trend, with new tasks of individual conciliation and mediation being assigned to the Advisory, Conciliation, and Arbitration Service (ACAS) in this context. ACAS is the main body involved in conciliation and arbitration. It is an autonomous, tripartite body established by statute and its task is to improve industrial relations. Arbitration is neither compulsory nor legally binding. The UK has a Health and Safety Executive, but does not have a general labour inspectorate.

### **3. Trade union and employer awareness**

The trade unions and employers we interviewed were generally quite aware not only of the Racial Equality Directive, but also of the need to take action to challenge discrimination on racial or ethnic grounds.

#### **3.1 Trade union awareness**

Some trade unions had been consulted about transposition and were very knowledgeable indeed about anti-discrimination legislation. The National Equalities Officer from the Civil Service trade union, PCS, told us that her union and the TUC had been consulted by the government in transposing the Racial Equality Directive into UK law. However, she said that the government approach attempts '*to box you in*' in stakeholder responses, so her union's (PCS) response is to give its opinion first with a more rounded approach and then answer the government's questions. She went on to say that the most important change brought in by the Racial Equality Directive was a statutory definition of harassment, in the UK previously this was only defined by case law. Nonetheless, '*The intention of the Racial Equality Directive is well meaning but its translation into legislation has been very poor.*' Implementation was weak. For example,

specific duties were created to help public authorities meet their obligations to provide services while eliminating unlawful discrimination, promoting equality of opportunity, and good community relations amongst both service users and in employment. In 2007 the former Commission for Racial Equality (CRE) confirmed that the requirement for equality scheme action plans (monitoring job applications, promotions, training, discipline, and complaints) have not been implemented in fifteen government departments including in major departments (evidence provided) . Within the Civil Service, the number of Cabinet Office staff supervising the process had been reduced to the point of disfunctionality, in her view deliberately. *'You introduce a piece of legislation and then you set out to undermine it.'*

TUC affiliated unions are not obliged to follow TUC advice which is mainly provided for the benefit of affiliated unions without equality officers. Another trade union officer told us that there was consultation between the union and the government on the implementation of Racial Equality Directive in the UK. However, she went on to say that the UK government favoured a 'light touch' and noted that the fact that because the changes were introduced by regulation, rather than primary legislation, this meant that there was little opportunity for lobbying on the changes. *'They [the government] did not provide for the scope of the legislation to be changed in the way that they should due to the fact that the transposition was by regulation... Reversal of burden of proof only applied to the areas that the directive covered... These were significant gaps.'* This respondent pointed to a number of areas where transposition of the Racial Equality Directive had been defective. Amendments to earlier UK law had created a two-tier system of rights, with colour and nationality, excluded from the more extensive provisions of the law – in particular, the reversal of the burden of proof and the victimisation provisions. The Equalities Director and National Organiser of the public sector union, UNISON, commented:

*'The transposition was via regulation and they created a two tier system. There was a 'no detriment' principle that said that Member States should have the same protection or better, but you couldn't have worse. So that you would have no race to the bottom... The transposition of the legislation did not adhere to the 'no detriment principle'.*

Several trade union respondents suggested that other factors than the Racial Equality Directive had prompted changes in policies. One said that although the main change brought about by the Directive as far as the UK was concerned was 'the reversal of burden of proof', there was nothing much that European law had to offer. Almost everything else was already covered by UK law, which, according to him, was 'well ahead of the rest of Europe' given that there was a 'long standing legal framework dating from 1970's.' The enquiry into the racist murder of the black teenager, Stephen Lawrence, in 1993 had added to the existing legal framework in that it promoted attitudinal change and in this respect was more important than the race directive. As a result 'institutional racism' was recognised for the first time in the UK. This view was supported by a UNITE respondent, who explained: *'In terms of race equality we already had legislation in place so the Racial Equality Directive did not make much difference...but it is always helpful to have legislation that encourages us and other*

*bodies to negotiate with employers'.*

The fire service trade union respondent reported it was the Thematic Review of the fire service that acted as the major impetus for the introduction of equality measures in the late 1990s and early 2000s. The Review commended the union for its work pushing for equality. The union's equality policy – 'All Different All Equal' – was introduced in 2000 and had a massive impact on how the union dealt with discrimination issues, by saying that it won't necessarily represent members who have harassed others. This changed union culture around the tolerance of harassment.

### **3.2. Employer awareness**

In contrast with the trade union responses, the employers appeared less aware of the Racial Equality Directive. The Confederation of British Industry (CBI) had been consulted about the legislation and although somewhat critical of the changes in the burden of proof, was generally favourable to it. The HSBC respondent (Head of Recruitment) spoke largely about the HSBC brand and its policies and practices in terms of recruitment, mentoring, monitoring and research of ethnic minorities, but gave no concrete example of how this was linked to Directive or Amendments.

HSBC UK works in a 'matrix fashion' with the wider Group. It has a Diversity Council and Governance, where best practice and understanding around cultural difference is shared. A Diversity Team was in place but the bank does not see Diversity as a separate issue and aims to integrate into all business practices. The respondent stressed that HSBC aims to be beyond compliance *'In terms of the mechanisms we had to monitor and track BME performance, engagement, attrition, and a lot of processes which had already been anchored, to help us understand the experiences compared and contrasted with other groups of employees, and what was needed to be put in place. Even in 2003, we had the Employee Network coming into place, the Graduate Team was starting to focus on ethnic minorities and applicants, and we had already segmented our Global People Survey to really understand if there were any significant differences between groups.'* Although he was asked about how 'indirect discrimination' in legislation may have impacted on the bank, he did not think that it had. According to him, there were no reported cases, awareness already being high.

The Diversity Programme Manager from Tesco believed the 2003 amendments made the law clearer as to what constitutes discrimination. Tesco's diversity policies and strategies were driven less by changes in the law than by seeking out talent in order to gain competitive advantage. *'We are seeking to attract and employ the most talented people. It's a talent-based business case for us. We recognise there are many talented people from all walks of life. We know that there is a direct link between that talent and our balance sheet. How do we get people to realise their full potential?'* In order to achieve this in response to the 2003 changes in the UK law Tesco launched a project to ensure that the company was within the law and that HR managers had guidance on it. The goals of this campaign were twofold – *'to reflect the communities we serve; to make everyone welcome at Tesco's.'*

The Department of Work Pensions respondent (a Team Leader Diversity and Equality) considered the existence of the racial equality scheme operates '*in each bit of the DWP*'. In terms of standards '*we raise standards at different opportunities, and that's at all different grades across the department*.' The respondent said that there had been progress, for example, in terms of promotions while she had been in post over the last four years, where previously people from ethnic minorities had been shown to have been under promoted. '*That trend seems to have changed. But it is too early to say whether there is a consistent upward movement. Over the last few years we have done a lot of work to improve the diversity of our staff at more senior levels in terms of ethnic minorities, gender and disability*.'

The Diversity Advisor of the Chartered Institute of Personnel Development (the main professional HR organisation) had been involved in discussions at European level. These, she said '*were quite informative on the different perspectives on race, and made us realise that in the UK we were quite ahead in terms of legal provisions*'. She pointed out that all the member states are at different stages and need to do different things. '*In the UK, we try to go for gold-plated legislation and do more than absolutely necessary in some peoples' views anyway*'. Her view was that the UK approach to law differs from Europe in certain respects. '*I think there is a difference between the way the UK takes forward law and the way the EU promotes things in a Directive, regarding the purpose of the law. We don't have purposive clauses in the UK*.' In general her view was that the law is limited in terms of impact, that wider cultural change has a wider influence. The CIPD would much rather see legislation being an enabling framework in tune with current ideas following the Green Paper on Progressing Diversity.

#### **4. Comments on the equality body**

There were major doubts raised by the trade unions about the Equality Body in the UK, the Equality and Human Rights Commission (EHRC). This is partly because it has only just been formed, bringing together the Commission on Racial Equality, the Equal Opportunities commission and the Disability Rights Commission. And it is partly because of concerns about the difficulties involved in pursuing individual legal solutions around employment issues that should better be resolved collectively.

Thus the Communication Workers' Union (CWU) respondent felt that the major problem facing members encountering discrimination was one of confidence: '*Confidence is a big issue. They've got to be confident in the union*.' Fear of victimisation is always a factor in making allegations of racism. There had been 'hiccups' in union representation where members had been let down. These had been more the result of bureaucratic failures such as prospective Employment Tribunal cases missing submission deadlines. These could be attributed to a lack of resources, rather than to any lack of commitment. '*There is a need for more black people to put themselves forward (to the CWU panel to represent people at Employment Tribunals), but there is a difficulty in getting people to put themselves forward. They have to submit a CV*.'

A PCS respondent said that the union will support legal cases at branch or at head

office level if the case is sufficiently difficult or important. However, black members complain of (white) reps being insufficiently supportive. She attributed this lack of support to the paucity of black representatives who would have greater empathy with the members and better understanding of the issues. However members have become more aware of and are trying to make more use of Race Equality Impact Assessments and Equality Schemes. *'But there is a sea of resistance from the employers... who know that even if they break the law, which they do, that nothing is going to happen to them....The worst that can happen is that they will get a fine which comes out of the public purse, so there is no detriment to them.'*

This view was supported by the TUC respondent who argued that unions *'seem to find the issue of race discrimination very difficult, so they hand over the issues to lawyers who then decide whether there's a chance of success.'* Hence a tension develops between black workers and their unions. Lawyers thus appear to be making all the running. They are not getting instructed by the union, they are dictating strategy – unions for their part are worried about costs of tribunals and the costs for vexatious cases

There were negative comments from two of the respondents on trade union relationships with the new Equality and Human Rights Commission (EHRC). One respondent noted that, unlike the predecessor body, the Commission for Racial Equality (CRE), trade unions had little or no contact with the EHRC on race mainly because *'no-one in the EHRC is responsible for race unlike CRE'*. Whilst there is some work on community cohesion, in his view *'race is off the agenda for government'* – the general view seems to be that the problem of race discrimination has been solved. Another respondent noted that through using her own *'personal capital'* she has regular six weekly meetings with EHRC representatives, despite initial attempts by *'certain political factions'* to exclude the trade unions. The TUC Race Committee of which the respondent is a member previously met the (defunct) CRE on a quarterly basis but it is not invited to meet the EHRC. Only the PCS Head of Equalities meets with the EHRC Chair with other unions on a quarterly basis. However this respondent went on to make the following critical observation. Only the Equality and Human Rights Commission can take out compliance sanctions which she claimed had been subject to political interference. *'In terms of PCS members, they have not felt one iota of difference with the Race Equality Duty coming into place.'* The respondent claimed that she had correctly predicted the failure of the legislation because black people were in the weakest position to do anything about it. She compared the position on race equality unfavourably with that concerning disability and (white) women who have made much greater progress as a result of European equality directives.

As far as the employers were concerned, relations still left much to be desired with the EHRC. The CIPD reported that it had worked with CRE and now worked with the EHRC and felt that the latter was better at listening to the challenges that employers are present. Her view was that agenda has now changed so that the new body is not just protecting the interests of lobby groups but is working with different stakeholders more than before. The CBI's relationship, however, was not as good as it had been with the CRE, and it was still waiting for the establishment of a regular channel of discussion.



The CBI respondent also reported that their members found it very difficult to contemplate using the EHRC as a service that would help them. They preferred the ACAS help-line on these issues since the image of the EHRC was not as independent. Tesco had also had little contact with the EHRC, although the respondent noted that *'We are due to have a meeting with the CEO of the EHRC. The meeting is going to be a broad level introduction. We occasionally have contact with them when a customer highlights a potential equality or human rights issue with them, and they will represent the customer.'*

## **5. Trade union and employer policies and measures**

### **5.1 Trade Union Policies and Measures**

Broadly, the trade unions have attempted to maintain pressure to counter racism in the workplace after the passage of the Racial Equality Directive. Trade union representatives gave examples of their anti-discrimination practices in relation to the workplace, the labour market, the national political context and also in relation to their internal union organisation. Thus UNISON's policy was around three key strands: Negotiate, Educate, Litigate. The union has run a number of courses; it has publicised the Directive; ensured member awareness to changes to burden of proof; highlighted the changes to the law on harassment; and lobbied against the 'two tier approach of UK law'. Information on the Directive and on the union's policies in relation to racism are provided on its website and are circulated to branches. The race equality strategy was also agreed at the UNISON annual conference and therefore is official union policy. The union has also produced a guidance document 'Public sector equality duties' UNISON guidance 2008, which explains what the duty implies and gives guidance on organising and negotiating.

UNISON, like many other unions espouses the principle of self-organisation. The anti-racist strategy agreed at the 2004 conference has seven strands: 1) tackling racism in the workplace; 2) employment and staff development (black staff have increased from 7 to 14 per cent); 3) recruitment and participation (our respondent says black membership has increased from 10 to 14 per cent) – the 2009 TUC equality audit will also show significant improvements; 4) campaigning on behalf of asylum seekers; 5) consultation with government; 6) challenging discrimination in the labour market; 7) services to members.

The general trade union, the GMB (General, Municipal and Boilermakers' Union) also adopted a new strategy entitled 'Equality through inclusion'. The policy aims to go beyond traditional race equality policies in trade unions by looking at measures that can address discrimination in the workplace and in society while at the same time mainstreaming these issues. The new strategy starts from the question *'what is the aim of trade unions? – to improve the lot of members'*. This meant that recruitment and organisation had to bring race equality into the centre. Equality had to be brought into the mainstream. How they do this is through a 'Respect @ work' agenda which addresses the concerns of all members. The respondent described this as moving

equality *'from a strand to becoming an issue'*. It is about defining minimum standards that all workers should expect at work.

However, a PCS respondent, although noting the increased take up of race equality impact assessments and equality plans as a result of the new legislation, also commented that: *The trade union movement for the most part is in a state of denial, never challenging discriminatory attitudes, culture and behaviours.* Black and ethnic minority members are underrepresented among the union's elected representatives. They constitute 10 per cent of the PCS membership but represent less than 4 per cent of office holders at branch level. This is important because it undermines equal relationships within the trade union movement, and undermines and fractures the base of the union. While the respondent has issued guidance on the changes in the law, the Racial Equality Directive as such has had no effect on the practices of the PCS. She argued that the hearts and minds of the members had to be won: *'They like to pretend that it (racism) doesn't exist because "Oh we couldn't possibly have racism in the union, could we?"'* The respondent said that only guidance had been issued about the new laws, but there had been no training for paid union officials. The Directive had been incorporated into anti-discrimination training for workplace representatives but this training is not mandatory and there is poor take-up of these courses.

## **5.2 Employer policies and measures**

The large employers interviewed had all embraced the business case for diversity, and saw this not just as necessary to meet the requirements of public procurement, but also as an end in itself, as good for their own customers. In Tesco the formal procedure for dealing with discrimination is contained within the manual 'Policies for our People'. The respondent said the company saw training as important to embed a diversity culture in the company. *'More importantly we then started to institute training on diversity at that time, the idea being we would never need to rely on the law. Legal policies are the end of process – when something has happened, what are we going to do? We developed a broad suite of courses which we've trained 20,000 managers in, called "Everyone is welcome at Tesco", a full one day course... including lots of examples and role play.'* Additionally *'everyone who joins the company goes through a two-hour course for all employees as part of their induction; and there is a half-day course entitled "Managing ethnicity/gender/disability/age with Confidence" for anyone who manages people, from team leaders through to store directors.'*

The respondent said that the Directive had had relatively little influence on Company policies and procedures on race discrimination. *'But people from ethnic minorities become aware that they do have equal rights...I would imagine that as you look across industry more cases have been brought, which does not mean that race relations are getting worse, but that people are more aware of the law and have the confidence to challenge (discrimination).'*

As a public authority the DWP was required by the Race Relations Act to produce an equality scheme and annually updated progress reports. This showed employment data, including data for underrepresented groups. In the department's annual staff performance

and development reporting process *'we know that minorities are likely to do less well... It's made us think very carefully about the messages we're sending out at the time that they're being conducted... The law is a useful lever in that process.'* The equality scheme and progress reports had to be signed off by the Executive Team, the Permanent Secretary, and by the Minister. Additionally there were regular reports on equality and diversity to the Executive Team.

The Royal Mail Group respondent was a member of the EHRC. She *'hoped that'* the ethnic minority workers would be very aware of their rights and that they would exercise those rights, and that if they felt ill treated they would complain even if they weren't aware. Royal Mail poster campaigns emphasised that they had rights about fairness. As a member of the EHRC the respondent was fully aware of all government equality campaigns: *'They've had campaigns such as Kick Racism out of Sport with SkyTV and Sir Herman Ousley (the first black head of the Commission for Racial Equality). They're doing a piece of research at the moment to make sure that there's not a higher proportion of one particular minority group being hit by redundancy more than another.'* Royal Mail was producing its own such plan on which she had worked. When asked about her knowledge of what other employers were doing on the issue the respondent replied:

*Most of the corporates have a fantastic equality agenda, maybe not the SMEs. Most of them have a Head of Diversity where ten years ago when I joined B&Q, I was the only one. I go to events where 50 CEOs are there, with Gordon Brown, and who are not just giving it lip service. They know what they are talking about. They are now talking about professionalising diversity management. There is currently no professional qualification. I am a CIPD (Chartered Institute of Personnel Development) and have an MBA but nothing as a Diversity Manager. Cranfield (Business School) is now taking about introducing such a qualification.*

She felt that the legislation had improved ethnic/racial protection in employment. She thought it had had a bigger impact on medium-sized businesses which did not have diversity managers, and *'has made them think about it'*. In the public sector the equality duty had also made the employers thinking about not discriminating.

There are examples of employer diversity/anti-discrimination practices in relation to workplace and labour market (e.g. recruitment). Tesco operates a survey of employee attitudes. *'In terms of ethnicity we have a survey which measures employee attitudes called Viewpoint. Two of the questions are entitled "An opportunity to get on?" and "Treated with respect?" We had an issue in London two years ago where ethnic minority people felt, slightly, that they had less of an opportunity to get on and were treated with less respect. The Diversity Council came up with a plan to correct that, including lots of focus groups with the people in those areas about what the challenges and issues were for them, lots of work with the managers as well, and some external work with some religious and faith groups. The outcome is that now Viewpoint indicates that ethnic minorities (believe that they) are treated with more respect and have more of an opportunity to get on than white people. The reality is that both have an equal opportunity to get on but it's a question of perception. There's (been) an obvious impact*

*on productivity, based on how people feel about who they are working for. Sickness and absenteeism have gone down amongst ethnic minority staff and retention has gone up. I think that this is because of this programme, there's no other thing that has happened (to cause this).'*

In the DWP there had been a lot of work when the Race Relations Act amendments had been introduced in terms of equality impact assessments, both in terms of staff and of service delivery. *'You have to bring it to the attention of people at senior level first and at a junior level later.'* There were a range of ways in which awareness was raised and training delivered. There was a mandatory 90 minute e-learning course covering all aspects of diversity and equality which all employees had taken following the introduction of the Disability Discrimination Act in 2006. There was also specific e-learning training for each diversity strand, and bespoke suites of 'quite quick' modules had been developed for new recruits depending on the nature of their work.

Tesco has a high level Diversity Council to ensure diversity is given a high profile within the company. *'The Diversity Council has not been marginalised because central to it is the business case for maximisation of the use of the company's talent.'* The Company keeps statistics on the ethnic composition of its workforce at every level, but these were not publicly available, although some of this information was released in the Corporate Social Responsibility Report (April 2009) which would show the per centage of those who are not white British at different levels of the company. Some ethnic minorities were more highly represented than others, and Asians more than black people. This would not be true at local level where for example the Brixton store is 95 per cent black, but in Hertfordshire there would be very few black people working in the store. He pointed out that 50 per cent of all ethnic minorities are in London.

The 'business case' for diversity was in relation to race discrimination was outlined by the BT respondent. She said that the legislation encouraged employers to become more active on anti-discrimination issues:

*I think that certainly because BT is a diverse employer which embraces diversity, it looks to embed these into its business practices, principles and ways of working. It identifies with the benefits which can be gained from working in this way whether it's for its employees, its wider communities, or as a business. It's a triple win pyramid really. By creating more awareness and onus on organisations to do more you can only enhance those benefits all round.*

## **6. Views on how to tackle discrimination better**

Anti-racial discrimination legislation in the UK was first introduced in the 1960s. It initiated a series of anti-discrimination legislation covering (initially) women and then other groups. Because the UK does not have a written constitution the legislation mainly consists of civil law provisions, although incitement to racial hatred is classified as a criminal offence. In Northern Ireland, a separate legislative framework has been

introduced for political and constitutional reasons. It is also the case that legislation has developed in a piecemeal fashion.

The union respondents suggested that the law and awareness of it could be more effective. In the view of the TUC, the focus on race now has been weakened due to the introduction of the employment directive and the single equality body. This has resulted in the focus on individual strands being lost. In addition 'the issue of security has led public discourse into the area of integration rather than anti racism'. Furthermore the current organising initiatives around migrant workers, whilst important, are unconnected with the race directive. All our trade union respondents agreed that equality reps should be put on statutory footing. The emphasis of the employment directive is on 'diversity' - *'this is a real distraction from dealing with institutional discrimination'*. In the TUC's view two important legal changes are required: legislation should be extended to the private and voluntary sectors, since the public sector is only a third of the labour market; and there should be much greater ability to pursue positive action measures on the Canadian model, where the focus is to put duty on all institutions not to discriminate. In this respect the UK is *'a long way behind countries like Canada'*.

The respondent from the NASUWT (National Association of School Masters-Union of Women Teachers) argued that there is a need to improve enforcement as the *'present powers are not being used and there's a light touch approach anyway'* In addition *'its necessary to encourage black workers to report racist incidents ...although we know this doesn't go anywhere.'* The government should take a lead on this: there is a *'poor response from them'*. *'We need to empower black workers through both workplace and community organisation'*. She also argued strongly: *'We must get rid of the BNP. I'm sick to death of being told that they are a legitimate political party; they should not be allowed to work in schools - they are real threat to incite race hate crime.'*

The employer respondents also suggested the law and awareness of it could be more effective. One respondent felt that the law is unclear both for the employer and the employee as to what constitutes 'reasonable' behaviour, and would welcome such a clarification. All the employer respondents argued for a greater simplification of the law. The CBI respondent added: *'We don't need a new layer of legislation. We need to use what we have, to get it down to the level of the firms'*.

## References

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