

**A Framework for Fairness:
Proposals for a Single Equality Bill for Great Britain**

Response Form

We welcome your views as part of the consultation. For convenience, this preformatted response form sets out all the questions in the main consultation document. It can also be downloaded from www.communities.gov.uk/index.asp?id=1017165.

Should you wish to use the form, it should be returned, once completed, to:

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The consultation closes on 4 September in 2007. Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

Name

Organisation (if applicable)

Address

Postcode

Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please

tick this box and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential:

Please say why

You or your organisation

Q(i) In what capacity are you responding?

As an individual (if so, please go to Q1 in the main comments section)

On behalf of an organisation (if so, please go to Q(ii) below)

As an employer (if so, please go to Q(iii) below)

Other (please specify)

Voluntary Organisation

Q(ii) Is your organisation

(please tick the boxes that apply to your organisation)

A local authority (including health authority) / organisation

An equality lobby group or body

A statutory body

An organisation representing employers

An organisation representing financial institutions

A professional association

A university

A college of further education

A trade union/staff association

Other – please specify

Q(iii) If responding as an employer, how many people do you employ?

Between 1 and 14 employees

Between 15 and 49 employees

Between 50 and 249 employees

250 employees or more

Q(iv) If responding as an employer please indicate which sector best describes you:

Legal services

Construction and/or building design

Communications

Wholesale and retail trade

Leisure – hotels, restaurants, pubs

Leisure – cinemas, theatres, museums

Leisure – other

Distribution/transport

Financial and/or business services

Electricity, gas and water supply

Advice and/or information services

Public administration

Education/training

Health and social work

Charity/voluntary work

Other (please tick box and specify)

Proposals for a Single Equality Bill for Great Britain

The main consultation document addresses various proposals and options for changing discrimination law in order to create a clearer, more streamlined equality legislative framework, which produces better outcomes for those who currently experience disadvantage. The following questions are reproduced from the main document, in the order and with the same numbering in which they appear there. In addition, you are asked for your comments generally on the estimated provisional costs and benefits, as shown in the Initial Regulatory Impact Assessment and the Equality Impact Assessment.

Part 1 – Simplifying the law

Chapter 1: Simplifying Definitions, Tests and Exceptions and Promoting Compliance

Simplifying Definitions and Tests

Direct Discrimination

Q1 Do you have any comments on our intention to keep the existing requirement for a comparator in direct discrimination claims?

Yes

No

If not, please give your reasons

Q2 Do you have any comments on our proposal to replace the separate definitions of discrimination in Part 3 of the Disability Discrimination Act with a single definition?

Yes

No

Please provide:

We strongly support the objective of simplifying and streamlining definitions.

Q3 Do you agree that we should largely keep the existing approach in relation to discrimination on the basis of perception and association, except for an extension to protect against discrimination on the grounds of association with transsexual people?

Yes

No

Please provide:

We would like to add that we believe there is a strong argument for extending protection on the basis of perceived disability - victims are rightly protected because of perceived religion or belief or sexual orientation as the discrimination perpetrated is unlawful and the consequences are to exclude an individual from enjoying equality on a discriminatory basis. The same force of reason applies to those perceived as disabled.

Indirect Discrimination

Q4 Do you agree with our proposal to extend indirect discrimination to cover gender reassignment but not explicitly introduce it to disability discrimination law?

Yes

No

Please say why:

The law should be as inclusive as possible however the concept of "reasonable adjustment" adequately resolves such instances of discrimination against disabled persons.

Definition of indirect discrimination

Q5 Do you agree with our proposal to harmonise the definition of indirect discrimination where it applies across the protected grounds?

Yes

No

Please say why:

Objective Justification

Q6 Do you agree with our proposal to harmonise the objective justification test?

Yes

No

Please say why:

Justification of disability discrimination

Q7 Do you agree that there should be a single test of objective justification for disability discrimination in employment and vocational training, goods, facilities and services, housing, education, private clubs and public functions?

Yes

No

The threshold for reasonable adjustments

Q8 Do you have any comments on our proposal to establish a single threshold for the point at which the duty to make adjustments is triggered?

Yes

No

Please provide:

We agree with a single low threshold.

Victimisation

Q9 Do you agree that the approach to victimisation in discrimination law should be aligned with the employment law approach?

Yes

No

Please say why:

Simplifying Exceptions

Genuine occupational requirement test

Q10 Do you agree that a genuine occupational requirement test should be introduced for all grounds of discrimination, with the exception of disability (where it is not necessary)?

Yes

No

Please say why:

Q11 Do you think there is a need to retain any of the genuine occupational qualifications listed in the Sex Discrimination and Race Relations Acts?

Yes

No

If so please explain why:

A list of exceptions is complicated and can never be exhaustive of the genuine circumstances where case by case exceptions are applicable nor are the listed exceptions always justified in all circumstances. It is far better to have the issue determined on the basis of a flexible principle such as proportionality.

Genuine service requirement test

Q12 Do you support or oppose the introduction of a genuine service requirement test for differentiation in the provision of goods, facilities or services, housing and the exercise of public functions?

Support

Oppose

Please give your reasons and examples of what it might cover:

Specific Exceptions

Q13 Do you agree with the proposal for a unified approach where exceptions apply to more than one protected ground, where this is appropriate?

Yes

No

Please give your reasons:

Q14 Do you have any comments on our proposals for retaining the specific exceptions set out in Table 1 in Annex A?

Yes

No

Please provide

Q15 Do you agree that the exceptions listed in Table 2 in Annex A should be removed?

Yes

No

If not, please explain why.

Q16 Is there any need to return an exception to allow insurers to treat people differently on the grounds of sexual orientation, where supported by sound actuarial evidence, beyond the end of 2008?

Yes

No

If yes, what should this seek to achieve and why:

Chapter 2: Public Functions

Q17 Do you agree that there would be benefits in adopting a harmonised approach to the goods, facilities and services and public functions provisions are structured across all protected grounds?

Yes

No

Please say why:

Meets the overriding objective of CEHR which is to bring all protected strands to an equal footing - there is little justifications for differentiation and exponential benefits in harmonisation.

Q18 Do you think the exceptions could be streamlined in this area or do you think that there are any exceptions that should apply to public authorities that it would not be appropriate to apply to the provision of goods, facilities or services by private bodies?

Yes

No

Please say why:

Exceptions should apply to public bodies which have objectives other than commercial to promote equality and equal access.

Chapter 3: Equal Pay

Q19 Do you agree that the distinction should be retained?

Yes

No

Please say why

Q20 Do you consider there are further areas of the law of equal pay developed by case law, which it would be helpful to codify?

Yes

No

Please give details of these areas of legislation and any case law relevant to these

Q21 Do you have further suggestions on how we could simplify equal pay legislation or make it easier to work in practice?

Yes

No

Please provide further information on how equal pay legislation could be simplified to make it easier to work in practice.

Q22 Do you agree that allowing the use of hypothetical comparators would be unlikely to give any benefit in practice.

Yes



No



Please explain

For the reasons set out in paragraph 3.28 of the consultation paper.

Part 2: More effective law

Chapter 4: Balancing Measures

Q23 What evidence is there of the extent to which the current "positive action" provisions are being used? Do you consider that the current provisions limit the actions that employers and others would like to take?

There is currently massive under representation of Muslims in most employment fields, both public and private. A recent Trades Union Congress study says some 69% of Muslim communities live in poverty and, at 43%, they have the lowest employment rate of any ethnic group. In comparison, 20% of white people are said to be living in poverty. In key professions such as the Police which employs about 40,000, proportionate community representation is not just central to integration and effective policing but is increasingly recognised as a key national security tool. Unfortunately to date there are only around 300 Muslim police officers and there is little evidence of positive measures being used even in sectors when they should be most expected and certainly most needed. Where there are clear inequalities and measures for their ameliorisation do exist but are not exercised it gives the perception that there is "good reason" for the status quo and results in an entrenchment of institutional discrimination as may be demonstrated in the recent case of *Husain v Chief Constable of Kent*, Employment Tribunal, 6th April 2006. We submit that a contributing factor of this situation is the widespread knowledge that such measures exist but a lack of knowledge of their applicability and benefits.

Q24 Do you agree that it would be helpful for organisations seeking to make progress towards their goals of tackling under-representation and disadvantage to be able to use a wider range of voluntary balancing measures?

Yes



No

Please explain:

A clear and rational framework which permits positive action in recruitment are key to proper integration and overcoming pervasive and persistent discriminations that exist but are impossible to overcome by any other method. In 2004, the BBC conducted a survey in which fictitious applications were made for jobs using applicants with the same qualifications and work experience, but different names. For every 10 applications with traditionally English sounding names that secured an interview there were six with African sounding names and three with Muslim names. While the long term solution to such phenomena requires a national cultural change in the way we understand human worth and rights, the pressing concerns of integration and community cohesion demand more immediate and direct solutions and the more options available the more they are able to tailor solution to circumstances and resources.

Q25 Do you agree that measures to meet special needs in relation to education, training or welfare or any ancillary benefits should be permitted in respect of all protected groups?

Yes

No

Please explain why:

There is a lack of justification not to extend it to the other strands. When the causes and consequences of discrimination and inequality are similar across strands it is irrational not to resort to similar techniques and best practices. While much of the problems concerning integration for the Muslim community could have been addressed using the RRA framework the lack of grassroots Muslim representation in many BME organisations has meant that a larger proportion of the community has remained inaccessible. For instance information regarding honour crimes and women rights could and should have been disseminated widely in the past given that these are cultural problems affecting the Indian sub-continent in general - unfortunately far too many have felt unsupported. Today when many ethnic communities are choosing identify themselves with their religion rather than ethnicity a for more effective outreach would be achieved if directed at religious communities - thus while much discriminatory practice exist across wide cultural spectrums the justifications are usually compartmentalised within distinctive religious framework. Further there are particular problems in the Muslim community that have a far deeper effect on practitioners playing their roles as responsible citizens. In Muslim communities across the UK there is a wide dissemination of the idea that it is forbidden in Islam to partake in democracy. While the real factors driving such attitudes may be because such people feel that democracy does not value them as equal citizens the post facto rationalisation exists in the form of a distortion of religious principles. It is not

sufficient to merely declare such ideas emanating from an evil ideology - indeed this would only further entrench such beliefs and evidence suggests that the wider community fails to distinguish between "evil ideologies" and Islam per se. What is needed is a proper and comprehensive rectification of the distortion of such teachings.

Further while human rights case law is developing to differentiate between mandatory and voluntary practices in caselaw concerning freedom of religion and expression - see for instance non-mandatory 'jilbabs' in the Begum case or voluntary 'chastity rings' in the recent Playfoot case, it is important that religious communities clearly know their rights, duties and limits in order to maximise participation as contributing citizens and avoid the misconception that such limitations are unfair.

Q26 Do you agree with these proposals for issuing of guidance by the Commission for Equality and Human Rights, but that the Commission should not have a role approving positive action programmes?

Yes

No

Please explain why:

Guidelines would be a far more efficient process than approving specific programmes. It also allows for more flexibility and tailoring to needs, circumstances and resources.

Q27 Do you agree that we should have a power to continue the operation of the current provision beyond 2015, if this is still necessary and proportionate?

Yes

No

Please explain why:

It is of clear democratic benefit to achieve a parliament reflecting those it governs over.

Q28 Do you agree that we should widen the scope of voluntary positive measures for political parties to target the selection of candidates beyond gender?

Yes

No

Please explain:

Yes. Such a process will be far less resource intensive and require far less interference than addressing the gender strand because the numbers of other strand minorities would be far smaller yet achieve a disproportionately beneficial outcomes - a truly representative parliament.

Chapter 5: Public Sector Equality Duties

Q29 Do you agree that the race, disability and gender duties should be replaced by a single duty on public authorities to promote race, disability and gender equality?

Yes

No

Please state your reasons:

The case for a single equality duty is robust. The different approaches of the three strands reflect no more than a learning curve and cumulative benefit would be achieved in terms of practical implementation and streamlining reporting cycles and methodologies.

Q30 Do you agree that it would be helpful to provide a clear statement of the purpose of a single public sector duty which public authorities should use as a foundation for taking action to promote equality and good relations?

Yes

No

Please state your reasons:

It serves not only to impart guidance but also purpose and conviction. The lack of citation of the general duty of the CEHR was surprising - it forms only a footnote number 52 but really encapsulates the whole direction of the project - this should be given more prominence.

Q31 Do you agree with the four areas set out in the proposed statement of purpose?

Yes

No

If not, please give your reasons and any alternative suggestions.

Q32 Do you think that the proposed statement of purpose adequately captures the need for work to build good relations and promote positive attitudes within and between groups and underpins efforts to build integration and cohesion?

Yes

No

If not, please give your reasons and any alternative suggestions:

Q33 Do you agree that a single public sector equality duty should require public authorities to identify priority race, disability and gender equality objectives and take proportionate action towards their achievement?

Yes

No

If not, please give your reasons and any alternative suggestions:

Q34 Do you agree that public authorities should be required to review their priority equality objectives at least every 3 years?

Yes

No

If not please give your reasons and alternative suggestions

Q35 Would it be helpful for strategic equality outcomes to be set by the appropriate national Government?

Yes

No

If so, what would be an appropriate way of doing this?

Government directives deciding to prioritise strand scope would fail to take into account constituent demographic and resource variations specific to each authority which should determine equality objectives. National guidance to identify acceptable rates of progress, good practice and markers that enable authorities to determine their own course would very useful.

Q36 We would welcome views on the proposed new approach to supporting effective performance of a single public sector equality duty by requiring proportionate action towards the achievement of priority equality objectives, and on the four key principles we have identified. Do you prefer this approach, or an extension of the type of specific duties adopted so far in the race, disability and gender equality duties? Please give your reasons.

Paragraph 5.15 of the consultation papers identifies the tick box culture that has simply meant beurecratic obstacles rather than fulfilling a clear vision and process of equality. The new approach seems to strongly encourage some of the previous strand methodologies of gender and disability and so it is difficult to imagine in practise some of the duties not being voluntarily adopted. But this should not be prescriptive - it should be presented as good practice guidance. This would allow solutions to be determined by circumstances and more importantly the specific inequalities that exists locally.

Q37 If you prefer an extension of the type of specific duties adopted so far in the race, disability and gender equality duties, which elements of the specific duties do you think should be retained for a single public sector equality duty and why?

Q38 Do you think that the proposed single public sector equality duty should apply to all public authorities?

Yes

No

If not, please say how you think it should be targeted and give your reasons.

Q39 Do you think that a single public sector duty should be extended to cover:

a) age Yes No

a) sexual orientation; and/or Yes No

b) religion or belief; Yes No

Please state your reasons, including examples of the types of disadvantage you believe are experienced by people because of their age, sexual orientation or religion or belief which could be addressed effectively through such a duty.

The reasoning given for a single duty to promote the three existing strands is actually more relevant to extending it to all three strands (paragraphs 5.22-5.27): a single duty covering all strands would help Public Authorities (PA) respond more efficiently; a simpler and more effective lever for addressing inequality; instead of focusing on strands focus on the needs of the disadvantaged and multiple discrimination; allow PA's to make a real difference to user's; ensure good relations are built between all peoples and not just some.

Further the four "dimensions of equality" (addressing disadvantage; promoting respect and good relations between different groups; meeting group needs while promoting shared values; promoting equal participation) lose meaning and credibility unless **all** groups **are** treated equally. In the context of this consultation the reason for extending are self-explanatory - it should be the other way round, "what reason is there not to extend a single duty to all six strands".

The following is taken from a document published 2005 by The Open Society and sets out some of the challenges facing Muslims in Britain today.

Muslims are more likely to live in socially rented housing than all other faith

groups (28 per cent live, as compared to 20 per cent for the general population). Muslims are also the most likely faith group to experience poor housing conditions: 32 per cent of Muslim households live in overcrowded accommodation, as compared to 22 per cent of Hindu, 19 per cent of Sikh and six per cent of Christian households.

Muslim children experience high levels of the risk factors associated with child poverty: 42 per cent live in overcrowded accommodation, compared to 12 per cent for the population as a whole; 12 per cent live in households without central heating, compared to six per cent for all dependent children; and 19 per cent live in single parent households, compared to 23 per cent for all dependent children. Over one third (35 per cent) are growing up in households where there are no adults in employment, compared with 17 per cent for all dependent children, and 28 per cent live a household without a car or van, compared to 16 per cent for all dependent children.

In education, data continues to be collected on the basis of ethnicity alone. Available data indicates that the levels of academic achievement of Muslim students are low, but improving. In 2002, 40 per cent of Pakistani children and 45 per cent of Bangladeshi children in England and Wales gained five or more GCSEs at grades A*-C, as compared to 50 per cent for the population as a whole.

Almost one third of Muslims of working age have no qualifications, the highest proportion for any faith group. A major study, published in 2004, examined the influences on participation in higher education on the achievement and transition to the labour market of minority ethnic students. The study examines the experiences of different ethnic groups, so does not directly examine the experience of different faith groups. However, the study found that, with respect to students from other Asian groups, Pakistanis and Bangladeshis entering higher education have lower qualifications and are more likely to have vocational qualifications. On the whole, minority ethnic students are more influenced than White students by the expected better labour market opportunities that higher education qualifications would bring. Nonetheless, the initial unemployment level²⁵ amongst full-time Pakistani graduates, at 14 per cent, is the highest of all ethnic groups and compares to six per cent for White graduates.

Degree classification has a significant impact on employment. Nonetheless, even when comparing students with first and upper-second class degrees, Pakistani and Bangladeshi graduates had a higher unemployment rate than all other ethnic groups. In fact, while, as a general rule, employment is lower among students with a higher degree classification than those with a low degree classification, this is reversed in the case of the Bangladeshi and "Asian Other" groups. A higher percentage of Pakistani and Bangladeshi graduates go onto further study or training than White graduates.³⁰ The percentage of first-degree graduates entering into top three occupational groups is the lowest of all ethnic groups for Bangladeshis.

Muslims are by far the most disadvantaged faith group in the British labour market. They are three times more likely to be unemployed than the majority Christian group. They have the lowest employment rate of any faith group (38 per cent) and the highest economic inactivity rate (52 per cent). At 30 per cent, Muslim men had an economic inactivity rate almost twice that of Christians (16 per cent). More than two thirds (68 per cent) of Muslim women

of working age were economically inactive, the highest for any faith group. Of young people aged 16-24, Muslims have the highest unemployment rate of all faith groups; 17.5 per cent are unemployed, compared to 7.9 per cent of Christians and 7.4 per cent of Hindus. Muslims also tend to be overconcentrated in certain sectors of the economy: 40 per cent of Muslim men in employment were working in the distribution, hotel and restaurant industry, as compared with 17 per cent of Christian men. Moreover, 40 per cent of Muslims are in the lowest occupation groups, compared to 30 per cent of Christians. Muslim men are among the least likely to be in managerial or professional jobs and the most likely to be in low-skilled jobs.

There are also indications that the deprivation and disadvantage experienced by many Muslims in the UK may also have implications for their health status. In the 2001 Census, Muslims reported the highest rates of illness of all faith groups. After taking the age structures of the population into account, it is found that 13 per cent of Muslim males and 16 per cent of Muslim females reported that their health was "not good", compared to 7 per cent for Christians. Compared to other faith groups, Muslims also have the highest rate of disability.³⁷ Health data on ethnic minorities reveal that Pakistanis and Bangladeshis had the highest rate of diagnosed heart disease. There are also stark differences in the prevalence of diabetes in different ethnic groups. While Indians, African Asians and Black Caribbeans are three times more likely to have diabetes than Whites, Pakistanis and Bangladeshis are five times more likely to do so.

Q40 Might there be disadvantages in extending the duty to any of these groups?

Yes

No

If so please give examples

Q41 Over what timescale do you think a single public sector duty and any extensions to it should be implemented to ensure we have learned as much as possible from recently introduced duties on disability and gender?

Three years.

Q42 Do you think public authorities should be given the option to implement any new approach in advance of it becoming a legal requirement, enabling these authorities who have already taken an integrated approach to build on existing work?

Yes

No

Please explain:

It makes no sense to stunt existing progress by delaying implementation until the small minority of PA's who do not have policies dealing with all six strands to catch up.

Enforcements of Public Sector Duties

Q43 Do you think that there should be a single enforcement mechanism for the proposed single equality duty, enabling the commission for Equality and Human Rights to issue a compliance notice with or without an assessment, as appropriate in the circumstances, enforceable in the county court or Sheriff's court in Scotland?

Yes

No

If not, please give your reasons

Public Service Inspectorate

Q44 What do you think should be the role of the public service inspectorates in assessing compliance with public sector equality duties?

Q45 What issues would you like to see included in practical guidance on how public sector procurement can be used to achieve equality outcomes in the delivery of public services by the private sector, whilst ensuring that the guidance works well for business?

Chapter 6: Promoting good equality practice in the private sector

Q46 Do you think that an “Equality Standard” would be beneficial to businesses, employees and customers?

Yes

No

Please give reasons for your answers

If yes, would you prefer an accredited or a non-accredited good practice and compliance tool?

Accredited

Non-accredited

Q47 We would welcome your suggestions for other ways in which good equality practice could be encouraged and embedded in the private sector

Chapter 7: Effective dispute resolution

Promoting Early Resolution of Disputes

- Q48 Can you suggest ways in which Alternative Dispute Resolution could be used more effectively or widely to resolve discrimination disputes in the field of goods, facilities, services, premises and the exercise of public functions?

- Q49 Can you suggest ways in which the role of Ombudsmen might be used more effectively to resolve discrimination disputes?

Improving the handling of Discrimination Cases in the Courts

- Q50 Do you have any views on our proposals for enhancing discrimination expertise in the county and sheriff courts?

Disability Discrimination Education Cases in Scotland

- Q51 Do you think that the powers of the Additional Support Needs Tribunals for Scotland should be extended to include consideration of disability discrimination cases in education?

Multiple Discrimination

Q52 Can you provide us with evidence illustrating any difficulties of gaining legal redress in cases of multiple discrimination?

Q53 Are there particular issues you would want to see addressed in relation to multiple discrimination claims?

Part 3 – Modernising the law

Chapter 8: The grounds of discrimination

Disability

Q54 Do you have any comments on whether we should remove the list of 'capacities' from the definition of disability?

Yes

No

Please provide:

Q55 Do you have any comments on our approach to addressing the needs of parents and carers?

Yes

No

Please provide:

Married Persons and Civil Partners

Q56 Do you consider that the protection for married persons and civil partners is still needed in the absence of a "marriage bar" in employment?

Yes

No

Please give your reasons for supporting/opposing its removal?

Genetic Predisposition

Q57 Do you agree that there is no current justification for legislating to prohibit genetic predisposition discrimination?

Yes

No

Please say why:

Chapter 9: Age discrimination

Q58 What instances of unfair age discrimination outside the workplace against people of any age, are you aware of?

Please give details of any examples below:

Q59 Is legislation the most appropriate and proportionate way of tackling harmful age discrimination?

Yes

No

What would be the likely costs of legislation?

Q60 Do you have any views on how, if we decide to legislate, we can target the legislation to avoid unintended consequences and disproportionate burdens on both public and private sectors?

Yes

No

Please give details below:

Q61 Do you have any comments on any of the issues which would arise with a legislative approach to tackling age discrimination?

Yes

No

Please provide:

Chapter 10: Gender reassignment

Q62 Do you agree that we should prohibit discrimination on the grounds of gender reassignment in the exercise of public functions?

Yes

No

What are your reasons for supporting/opposing this?

Q63 Do you agree that it is unnecessary to include school pupils and education in any extension to protect on the grounds of gender reassignment?

Yes

No

What are your reasons for supporting/opposing this?

Q64 Are there any circumstances in which you consider that it is necessary for organised religions to treat people differently on grounds of gender reassignment?

Yes

No

Please explain what they are:

Q65 Do you agree that we should retain the existing definition of gender reassignment?

Yes

No

Please say why:

Chapter 11: Pregnancy and maternity

Q66 Do you agree that we should make less favourable treatment of a woman on grounds of pregnancy and maternity unlawful in the exercise of public functions?

Yes

No

What are your reasons for supporting/opposing this?

Q67 Do you agree that it is neither necessary nor appropriate to extend protection on grounds of pregnancy and maternity to school pupils and education in schools?

Yes

No

Please say why:

Chapter 12: Private clubs and associations

Q68 Do you agree that it is a positive benefit to have clubs which are set up for the purpose of offering the benefits of membership to a particular group, including single sex clubs catering for particular religions or beliefs or age ranges, along with those currently permitted under race, disability and sexual orientation law?

Yes

No

Q69 Do you agree with the proposal to make it unlawful for private clubs with 25 or more members (other than single sex clubs or those set up for members who are a particular religion or belief) to discriminate on grounds of sex and religion or belief?

Yes

No

If you do not, please explain why:

Q70 Do you agree that private clubs with 25 or members should not be permitted to discriminate against guests on the grounds of sex, race, sexual orientation and religion or belief, as is already the case on the grounds of disability?

Yes

No

Please explain:

Q71 Do you think that the law should address unjustified age discrimination by private clubs with 25 or more members (other than those set up to cater for a particular age range) if age discrimination is made unlawful in the provision of goods, facilities and services?

Yes

No

If you do not, please explain why:

Q72 Do you agree with our proposal for requiring disability-related alterations to the common parts of let residential premises?

Yes

No

Please say why:

Chapter 14: Harassment

Q73 Can you provide examples of harassment you think is occurring or could occur on grounds of religion or belief, sexual orientation, age or disability, which would fall outside the existing protections in discrimination and other law?

Please list examples below:

Following the attacks of 9/11, in May 2002, the EU's European Monitoring Centre for Racism and Xenophobia published what is still the most comprehensive study of Islamophobia in EU member states. The study, conducted by the University of Birmingham, collated evidence from all of the then 15 EU member countries and confirmed what ordinary Muslims and Muslim community institutions have long suspected: that verbal and other forms of abuse and violent attacks targeted specifically at Muslims happen with regularity across the EU. Serious examples have included death threats, attacks on mosques and houses, assaults with body parts of pigs and beer bottles, the removal of women's headscarves and abuse to women and children. While much of the aforementioned can be dealt with under the criminal law there is also much lower-level animosity that cannot. The most common is passing comments to those who appear Muslim inferring that they as Muslims are terrorists; are evil people, fifth columns within the UK; not real British citizens or asylum seekers. Such expressions are widespread and more often than not are unaccompanied by other acts which constitute breaches of the law and thus there is no recording, monitoring or collated evidence available. The ease and frequency that such statements are made make it particularly debilitating and freeze the victim from of engaging with society.

Q74 Do you think that express statutory protection against harassment on grounds of:

- religion or belief;
- sexual orientation;
- age; and
- disability

should or should not be provided in any of the following:

(a) the provision of goods, facilities and services?

Yes

No

Please say why.

Over the last six years in every circumstance where Muslims engage with the wider public they have experienced the kind of verbal associations outlined above. From bus drivers to market traders. This is one such example of a 22 year old Muslim female student wearing the hijab being denied entry onto a bus while passengers laugh on:
http://www.manchestereveningnews.co.uk/news/s/227/227125_veiled_muslim_stopped_for_boarding_a_bus.html

(b) education in schools?

Yes

No

Please say why.

In 2004 the British Psychological Society carried out a study of teenagers' attitudes towards Muslims in 15 York schools¹, some of their findings were:

- More than 9%, mostly the younger children aged 13 to 15, supported the ultra right wing views of the British National Party
- The view of Muslims of 18% of boys and 12% of girls had worsened since the invasion of Iraq. Some 12% of boys and 6% of girls said it had become "much worse" since the war.
- In addition, 23% of boys and 10% of girls said they would object if Muslim girls wore headscarves to school.

(c) the management or disposal of premises?

Yes

No

Please say why.

¹ Racism simmering in British schools, says survey, Press Association, Friday April 1, 2005

(d) the exercise of public functions?

Yes

No

Please say why.

It is not uncommon for public officers to reflect popular Islamophobic sentiment in the exercise of public office. In many towns across England the BNP have a strong presence in local politics and campaign on what is understood to be an anti-Muslim agenda. For instance in Barking they gained electoral success with leaflets showing remains of the 7/7 bus bombings - Home Secretary at the time Charles Clarke said the BNP "have tried to cynically exploit the current tragic events in London to further their spread of hatred".

Q75 Were statutory protection against harassment to be extended to one or more of the above grounds in one or more of the above areas, do you think that specific exceptions would be desirable?

Yes

No

If yes, please say why and the types of exceptions, if any, you would like to see in the legislation:

Q76 Do you think that harassment on grounds of religion or belief should be treated differently from the other protected grounds and that a different definition of harassment would be appropriate in this case?

Yes

No

If so, please state your reasons why:

In 1975/76, when the Race Relations Act was being drafted and agreed, there was discussion in parliament at committee stage about whether to include religion, along with nationality and ethnicity, in the legislation. The argument was made in particular by Conservative members, supported by some Labour members. The committee as a whole, however, decided to leave religion out, since at that time discrimination on grounds of religion was not considered to be a major harm that had to be addressed.

In August 2006 the Telegraph commissioned a poll on attitudes towards Muslims. When YouGov asked in 2001 whether people felt threatened by Islam, as distinct from fundamentalist Islamists, only 32 per cent said they did, by 2006 that figure has risen to 53 per cent.

At UN Human Rights Council during its second session, which took place from 18 September to the 6 October and from 27 to 29 November 2006, the special rapporteur found that

- in most areas of the world since 11 September 2001, there has been a serious upsurge in manifestation and expressions of discrimination against Muslims and Arab peoples and acts of violence against their places of worship and culture, the central theme of which has been hostility towards Islam.
- Discrimination has become more insidious and less visible.
- upsurge of Islamophobia is at its most alarming in Europe.
- Islamophobia is exacerbated by the importance of far-right racist and xenophobic platforms in the political programs of democratic parties and increasing intellectual validation and theoretical and ideological justification for Islamophobia, embodied in the theory of an unavoidable clash of civilisations.
- Islamophobia contributes to the erosion of democracy and respect for human rights.

The special rapporteur concluded "Discrimination and intolerance against religious communities are facilitated in an environment where religions and beliefs are degraded or maligned through a deliberate intellectual and/or political discourse which demonizes them."

Vehemently disliking a religion and expressing the same is not against the law, however the problem we are seeing is that individuals and not religions are being harmed and victimised on the back of a growing acceptance of Islamophobia. Scotland Yard figures, released on 3rd August, revealed a 600 percent rise in attacks motivated by religious hatred in London since 7th July. In the three days after 7th July, there were 68 'faith hate' crimes in London, compared with none in the same period of 2004. In the three-and-a-half weeks after 7th July, there were 269 religious hate crimes in London, compared with 40 in the same period of 2004. Scotland Yard figures, released on 3rd August, revealed a 600 percent rise in attacks motivated by religious hatred in London since 7th July. In the three days after 7th July, there were 68 'faith hate' crimes in London, compared with none in the same period of 2004. In the three-and-a-half weeks after 7th July, there were 269 religious hate crimes in London, compared with 40 in the same period of 2004.

CPS statistics show that over 50% of religiously motivated crimes have been directed at Muslims, significant when you consider that Muslims make up 2%

of the population. Despite this there is growing evidence that there is a lack of confidence in the police force which is contributing to under reporting of crimes where minorities have been victims.

Further nationally there are varying degrees of awareness of Islamophobia. Outside of London while the police do flag racist incidents they do not flag religiously motivated crimes. Evidence suggests that a large proportion of crimes recorded as racist are actually religiously motivated, this is suggested when examining racist crimes immediately after 7/7 with the corresponding month the year before. In South Yorkshire, there were 137 attacks in July 2005, up from 48 in July 2004. In West Yorkshire, there were 366 attacks in July 2005, up from 195 in July 2004. In the West Midlands, attacks increased by 46%, while on Merseyside they increased by 76%. In Scotland, there were 438 racist attacks in July 2005, up from 359 in July 2004. Nationally, the figures rose by 24%, from 3,355 to 4,160.

We do not believe that legitimate freedom of expression can be constrained because all public bodies are obliged to interpret any law or provision so that it complies with the European Convention of Human Rights, Article 9 of which protects this freedom. However the greatest evidence of the fact that in practice there will be no violation of Freedom of Expression is that no such complaint has been made to date when effectively there has been a law prohibiting incitement of hatred towards Jews and Sikhs for over two decades and there has never been a legitimate claim that such a provision inhibits freedom of expression. When some members of the Sikh community tried to seek legal advice on whether they could take the producers of a theatrical production to court because they felt it offended their religion the response was obvious. In short there are already structural and legal safeguards which guarantee in theory and practice Freedom of Expression but none which in fact provide the necessary protection against the harassment of persons on the basis of their religion - except of course if the targetted religious community is Jewish or Sikh.

Harrasment laws need to protect people from harm and discrimination - not protect ideas and religions. It is pertinent that many of the voices that oppose such proscription actually do not engage in free and open debate but rather engage in promoting bigoted stereotypes. In *The Open and Closed Mind* by Milton Rokeach, first published in 1960, the author examined but in how bigoted people's minds worked. Open-minded people are ready to change their views both of others and of themselves in the light of new facts and evidence; and are fair-minded in the sense that they do not caricature or over-generalise, and do not claim greater certainty than is warranted. These characteristics reflect the opposite of promoters of Islamophobia who premise propaganda that all Muslims are evil, form a fifth column within the UK all of which necessitates a "clash of civilisations". Such vilification is a far cry from proper democratic debate most notably because of the absence of voices to counter and a widespread recognition that such xenophobic stereotyping is legitimate.

In makes no sense that a law designed to protect the weakest and most vulnerble excludes the category in most need because there is widespread antipathy towards that category - the very purpose of human rights law is to protect such persons.

Q77 Do you think there is a valid distinction to be made between harassment in an “open” and in a “closed” environment and that the approach to its prohibition should be differentiated accordingly?

Yes

No

Please say why:

Q78 Do you have any evidence of harassment by third parties in the workplace in relation to protected grounds other than sex? If so do you consider that it should be dealt with in a similar way?

Yes

No

If so, please state your reasons why:

Annex B – Implementing the Gender Directive

Q79 Do you agree with the proposals in Table 1

Yes

No

If not, please give details of those you disagree with and your reasons for doing so.

Q80 Do you have any comments on the likely impact of the Gender Directive's insurance provisions on providers and/or customers of insurance and related financial products?

Yes

No

Please provide:

Q81 Should the ban on differences due to maternity or pregnancy costs be implemented in December 2007 or deferred until December 2009?

December 2007

December 2009

Please explain

Q82 Do you think 'maternity' should be defined for the purposes of the Sex Discrimination Act provisions covering goods, facilities or services and premises?

Yes

No

Please explain how:

Costs and Benefits

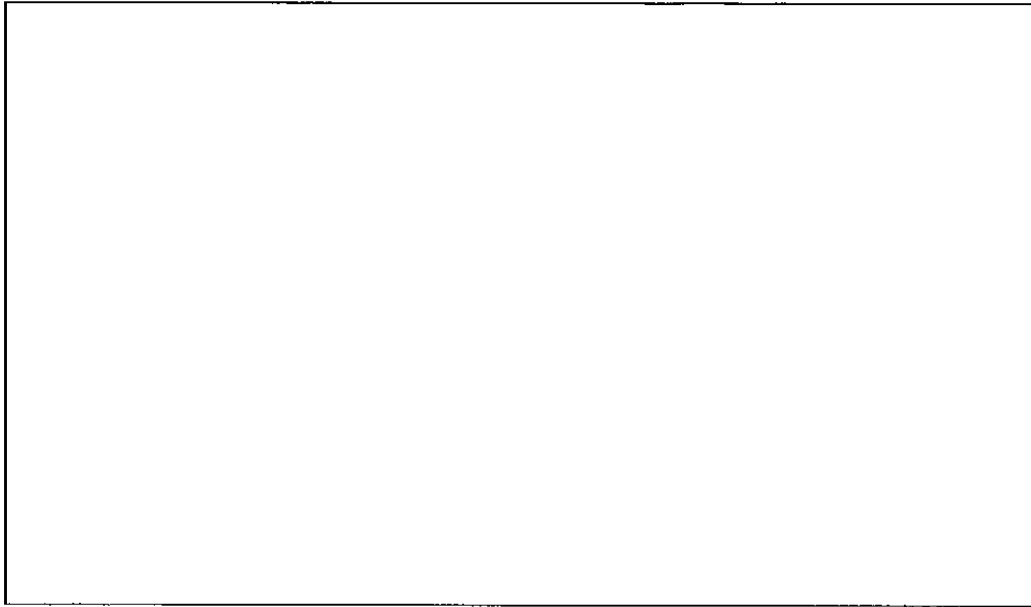
Q83 Please let us have your views on the estimate of costs and benefits summarised in the Initial Regulatory Impact Assessment.

Equality Impact Assessment

Q84 Please let us have your views on the Equality Impact Assessment.

Other Comments

Q85 Do you have any other comments about the consultation documents or the consultation exercise itself?



Thank you for completing this response form.