



Government  
**Equalities Office**

Putting equality at the heart of government

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*D. Theo*

**The Equality Bill**

Thank you for a very constructive meeting on 15th July to discuss ROTA and the coalition and your letter of 20th July.

I welcome ROTA's interest in the Equality Bill and I am keen to work with you to increase BAME engagement around the Bill. Thank you for agreeing to tell your members about our Bill events in September and I look forward to seeing you at the London Bill event at the Riverbank Park Plaza on the 4th of September.

You mentioned that you feel there is a need for an expansion of the definition of public functions, to include the Private Sector where they carry out public functions. I understand that while you were pleased to hear that the responsible Minister will be able to add to the list of public authorities, you were concerned with the Minister's proposed powers to remove authorities from the list. I know that the policy official leading on the public sector equality duty has already spoken to you to explain that our starting point is the existing lists (under the Race Relations Act for example). While I understand your concern that a future Minister might remove bodies thus limiting the scope and effectiveness of the duty, this is already the case for the race duty. This Ministerial power to remove authorities is needed in order to ensure that defunct bodies can be removed from the list and I believe that the supplementary clause (143(2)) should reassure you because it provides a considerable degree of future-proofing.

You were concerned that the definition of "public function" in relation to the Public Sector Equality Duty was linked to, what you feel are the perceived limitations of

the Human Rights Act. I hope you are reassured that we have adopted a "belt and braces" approach to the coverage of the Duty. We have combined the virtues of the approaches taken by the previous duties: schedule 19 of the Equality Bill (as amended in Public Bill Committee) gives us certainty and clause 145 (2) provides the flexibility that the Duty will be applicable to authorities (not listed in schedule 19) in respect of their public functions. This actually results in more comprehensive coverage than the current duties. In broad terms, there will be no reduction in coverage.

I can also reassure you that the Ministry of Justice are committed to consulting on the public authority definition in due course.

You highlighted your concern that inspectorate and regulatory bodies be covered by the Bill and you asked whether inspectorates and regulators will be able to enforce the Equality Duty. We are not proposing to change the current position with regards to the enforcement of the public sector duties. The general duty will be enforceable by way of judicial review and the EHRC will continue to be able to require a public authority to comply with their responsibilities under the public sector equality duty.

You said that some BAME communities see the merging of the CRE and the setting up of the EHRC, the Single Group Funding recommendation and the move from grants to commissioning, as coordinated changes that aim to dilute the race equality agenda. Although I believe that one of the benefits of a single Commission is the ability to bring an inclusive approach to promoting equality across the different areas, it is important to recognise that the underlying causes of discrimination against women, black and minority ethnic people and disabled people **are different, and require different solutions**. That concept needs to be supported by practical and visible arrangements within the Commission for each strand.

There have recently been discussions with the Commission on the need to give equalities strands stronger institutional expression and the Commission is expected to establish centres of expertise covering all the equality strands as the basis for a strong strand-based approach that complements their Strategic Plan and the cross-cutting work they are doing in support of the Equality Bill.

You mentioned that ROTA and the coalition could produce a response to the two consultations that we are currently undertaking, including as many BAME organisations as possible, and of course we welcome your help with this. I also welcome the fact that ROTA and the coalition have offered to ensure that BAME communities and organisations benefit from Equality Bill events we are holding in September, and I wish to thank you for your assistance with getting news of these events to the BAME community.

The Equality Bill is very important for the BAME community particularly:

**Positive Action:** The Equality Bill will, as you know, introduce a wide range of positive action provisions which employers, public authorities and political parties will be able to use to address under-representation and disadvantage, for example in employment, recruitment and promotion exercises. These measures will help BAME people to reach their full potential, and enable employers to better understand the needs of their customers or service users.

**Political parties** will also be able take advantage of positive action measures to tackle under-representation and compensate for historical disadvantage. For example, political parties will be able to:

- Provide mentoring and shadowing schemes;
- Provide training and leadership programmes;
- Create specific committees or sections based on a protected ground (e.g. black sections/BME forums);
- Reserve specific seats on committees for those from a specific protected ground (for instance women or those from a BAME-background).

**Transparency:** Inequalities cannot be tackled if they are hidden. There are a number of measures in the Bill which will throw a light on discrimination and so allow inequalities to be seen and tackled.

- We are consulting on requiring Public bodies to report on inequalities such as ethnic minority employment rates
- At the moment Employment Tribunals can only make judgments work for the individual who brought a discrimination case. The Bill will allow tribunals to make wider recommendations in discrimination cases which will benefit everybody in the workforce and help prevent similar types of discrimination happening again.
- £175 billion is spent every year by the public sector on British businesses. Government will look at how public procurement can be used to deliver transparency and change.
- The Equality and Human Rights Commission will conduct a series of inquiries in sectors where there is clear inequality, and has announced it will be investigating the construction industry, where ethnic minorities represent just 2.5 per cent of workers, compared with around 8 per cent across other industries.
- The Government will examine how an equality "kite-mark" could challenge businesses to report on important equality information.

In addition to the public Equality Bill events held in 2007 as part of the Bill consultation exercise, and the events held across Britain last autumn, you are aware that we are holding four further events for equality and business organisation this September. Updates on the Bill are being provided in a regular GEO newsletter, and posted on a dedicated section of the GEO website, and we would be pleased to add your coalition members to the newsletter circulation if they have not already subscribed via our website at <http://www.equalities.gov.uk/>

We have an ongoing programme of work with a wide range of stakeholders, including BAME groups, and I would welcome any suggestions you might have as to how ROTA and the coalition could help us further in building understanding and awareness among your member organisations.



MICHAEL FOSTER DL MP