

### Public Bill Committees – Scrutiny Unity

#### House of Commons

#### Race on the Agenda – Memorandum (2)

05/06/2009 – Dr. Theo Gavrielides, CEO

05/06/2009

#### 1. About this memorandum

1.1. Race on the Agenda (ROTA) is one of Britain's leading social policy think-tanks focusing exclusively on issues that affect Black, Asian and minority ethnic (BAME) communities. ROTA aims to increase the capacity of BAME organisations and strengthen the voice of BAME communities through increased civic engagement and participation in society.

1.2. As part of ROTA's work on the Bill, we have formed a national coalition of BAME and other third sector organisations that are generally supportive of our views. The 36 Winning the Race Coalition members can be found at <http://www.rota.org.uk/pages/WTRC.aspx>

1.3. This memorandum is submitted by Dr. Theo Gavrielides, Chief Executive of Race on the Agenda, tel 020 7902 1966, mobile: 07720057750, [theo@rota.org.uk](mailto:theo@rota.org.uk) Waterloo Business Centre, Unit 217 & 208 117 Waterloo Road, London SE1 8UL.

1.4. A separate memorandum was submitted on 02/06/2009. ROTA warmly welcomes the Single Equality Bill, and hopes that it can provide the legislative tools to tackle persistent inequalities such as those faced by Britain's Black, Asian and minority ethnic (BAME) communities. ROTA also hopes that through the Bill a culture of respect for equality and dignity is created and mainstreamed in providers of public services (whether public, private or voluntary) and in society.

1.5 This memorandum is prepared to complement the oral evidence given to the Bill Committee on 2 June 2009 by Dr. Gavrielides. The Committee requested that written evidence is submitted on the issue of multiple discrimination

#### 2. ROTA's position on multiple discrimination

2.1 ROTA, and the [Winning the Race Coalition](#), strongly support the inclusion of multiple discrimination in the provisions of the Equality Bill. This should cover both direct and indirect discrimination and should be extended to more than just the proposed two grounds. The work that ROTA undertakes, both through its research projects and networks, addresses the impact of multiple-discrimination on BAME individuals and communities who are also women, trans, younger, older, subscribe to faith, have a disability and are of various sexual orientations. In order for policy and services to meet their needs these must all be taken into account, along with the points at which they intersect.

2.2. People who are treated unfairly for a combination of protected characteristics should be able to seek remedy in the courts. In fact, we have evidence to suggest that multiple discrimination cases involve some of the most vulnerable sections of society. The more a

person differs from the norm and is considered to be “different”, the more likely that person is to experience multiple discrimination.

### 3. Multiple discrimination before 2004

3.1. The following cases were brought to court before 2004 and were won as multiple discrimination cases. The courts made it explicit in their judgements that the cases would not have been successful if they were brought on a single ground.

CASE	DISCRIMINATION	GROUND
Nwoke v Government Legal Service <sup>1</sup>	Direct discrimination	Gender and race
Mackie v G & N Car Sales n/a Britannia Motor Co <sup>2</sup>	Direct discrimination	Gender and race
Ali v North East Centre for Diversity & Racial Equality & Bux <sup>3</sup>	Indirect discrimination	Gender and race
Acharee v Chubb Guarding Services t/a Chubb Security Personnel [1999] <sup>4</sup>	Harassment	Race and sex

### 4. Multiple discrimination after 2004

4.1 After the Bahl case<sup>5</sup> 2004, it was not possible to bring to court multiple discrimination cases. The court said in Bahl: “In our judgement, it was necessary for the Employment Tribunals to find the primary facts in relation to each type of discrimination against each alleged discriminator ...” That meant that cases which could be brought only as multiple discrimination cases were no longer accepted by courts.

4.2. The following cases were brought to court as discrimination cases on a single ground and were lost or settled. Had they been brought as multiple discrimination cases the result may have been different.

CASE	DISCRIMINATION	GROUND
Azmi v Kirklees Metropolitan Borough Council [2007] <sup>6</sup>	Indirect discrimination	Gender and religion
Noah v Desrosiers t/a Wedge [2007] <sup>7</sup>	Indirect discrimination	Gender and religion
Bloomfield v Hampshire Police Force [2006]	Indirect discrimination	Gender and sexual orientation
Pearce v Governing Body of Mayfield Secondary School [2003] <sup>8</sup>	Harassment	Race and sex

<sup>1</sup> IT/43021/94

<sup>2</sup> ET no 1806128/03

<sup>3</sup> ET case no 2504529/03

<sup>4</sup> ET [2000] DCLD 43

<sup>5</sup> Bhal v Law Society [2004] IRLR 799

<sup>6</sup> IRLR 484

<sup>7</sup> ET2201867/2007

<sup>8</sup> IRLR 512

## 5. Concluding remarks

ROTA is in favour of including provisions to allow discrimination on the grounds of multiple protected grounds. This should extend to both direct and indirect discrimination. We would argue that limiting the combination to two characteristics is not the best way forward. However, we understand that there are concerns that case law will increase. We agree with the Equality and Diversity Forum that we should not expect an increase of more than 5% of the number of cases brought. We would argue that the limitation to two grounds only should be revisited within two years of this provision being introduced to consider whether the number of grounds should be extended.

## 6. Additional resources

For ROTA's response to the GEO consultation on multiple discrimination: <http://www.rota.org.uk/Downloads/ROTA%20Response%20to%20GEO%20Multiple%20Discrimination%20cons.pdf>

For ROTA's first Memorandum to the Equality Bill Committee: <http://www.rota.org.uk/Downloads/ROTA%20-%20House%20of%20Commons%202%20June%2009.pdf>

For ROTA's winning the Race Coalition members: <http://www.rota.org.uk/pages/WTRC.aspx>

For the Equality and Diversity Forum paper on multiple discrimination <http://www.rota.org.uk/Downloads/EDF%20paper%20on%20multiple%20discrimination.pdf>

For ROTA's briefing on the Single Equality Bill: [http://www.rota.org.uk/Downloads/ROTA\\_Policy\\_Briefing\\_23.pdf](http://www.rota.org.uk/Downloads/ROTA_Policy_Briefing_23.pdf)

For Winning the Race Coalition letter to RT. Hon Harriet Harman QC MP [http://www.rota.org.uk/Downloads/Winning\\_the\\_Race\\_-\\_ROTA\\_\(16\\_Feb\\_2009\)%5B1%5D.pdf](http://www.rota.org.uk/Downloads/Winning_the_Race_-_ROTA_(16_Feb_2009)%5B1%5D.pdf)

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