

GOVERNMENT CONSULTATION PAPER:

**TOWARDS EQUALITY AND DIVERSITY —
IMPLEMENTING THE EMPLOYMENT
AND RACE DIRECTIVES**

RESPONSE FROM THE

**FORUM AGAINST
ISLAMOPHOBIA & RACISM**

March 2002

RESPONSE FROM THE FORUM AGAINST ISLAMOPHOBIA AND RACISM (FAIR) TO THE GOVERNMENT CONSULTATION PAPER: 'TOWARDS EQUALITY AND DIVERSITY – IMPLEMENTING THE EMPLOYMENT AND RACE DIRECTIVES'

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INTRODUCTION

1. This response is submitted by the Forum Against Islamophobia & Racism (FAIR). FAIR strives to promote greater and more balanced understanding of the contributions and concerns of the Muslim community in Britain. It seeks to monitor and address Islamophobia in the media and assist victims of Islamophobic discrimination, harassment and violence. FAIR also carries a mandate to research and address institutional religious discrimination and campaign on policy and legislation affecting the Muslim community in Britain. Some of the issues raised here have been covered in previous submissions from the Muslim community.ⁱ
2. This submission will cover issues raised in the Government's Consultation Paper, 'Towards Equality and Diversity', which sets out the Government's proposals for the implementation of the European Race and Employment Directives into UK law. This paper will deal primarily with matters relating to religion, but will also include discussion on matters relating to race, particularly when it is of relevance to discussions on the former. The paper places the discussion of all relevant proposals for legislative change within the context of current discrimination legislation, which does not extend to Muslims but does extend to some religious groups, like Jews and Sikhs. The discussion is also placed in the context of on-going socio-economic problems facing the Muslim communities, which have been exacerbated by the events following 11th September. The key to overcoming social exclusion and isolation is Government action not only on reform of civil anti-discrimination legislation, but also non-legal policy initiatives and institutional changes. There is also a need for supplementary measures, particularly to encourage greater Muslim participation in public life and the public sphere. Discussions on these aspects are also included in this response.
3. This response covers the following issues:

A. CURRENT SITUATION

Section 1: Anomalies in Current Anti-Discrimination Legislation

Section 2: The Socio-Economic Status of the Muslim Community in Britain

B. PROPOSALS FOR LEGISLATION

- Section 3: The Scope of the Proposed Legislation**
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C. PRIORITIES FOR FUTURE NON-LEGAL REFORMS

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D. SUMMARY OF CONCLUSIONS & RECOMMENDATIONS

A. CURRENT SITUATION

Section 1: Anomalies in Current Anti-Discrimination Legislation

4. The Government's existing commitments to equality and non-discrimination in relation to ethnic minorities are not sufficient to ensure coverage and protection for religious minorities such as Muslims. Existing anti-discrimination legislation and policy has consistently failed to address the specific problems faced by Muslims in all sectors of British society.

5. The Race Relations Act 1976 outlaws discrimination on the grounds of colour, race, nationality and national or ethnic origin, but not on the grounds of religion or belief. The Government has consistently resisted calls to introduce primary legislation to prohibit religious discrimination. There is at present no law in the UK prohibiting religious discrimination against Muslims.

6. One of the main problems of the anti-discrimination legislation in the UK is that its case law definition of 'racial group' includes ethnic religious minorities but excludes non-ethnic religious groups, such as Muslims. Thus whilst the Courts have recognised Sikhs and Jews as falling within the ambit of the Race Relations Act 1976 (RRA 76), the same recognition is denied to Muslims. This leads to the anomalous situation where Sikhs and Jews, as minority faith communities, are fully protected against discrimination by the Race Relations Act 1976, but not Muslims. This in turn has resulted in inconsistency, inequity

and a hierarchy of protection and provisions afforded to different ethnic minorities.

7. The anomalies and inequalities under the RRA 76 were reinforced under the more recent Race Relations (Amendment) Act 2000, which requires certain public bodies, like the police, to:
 - prohibit direct and indirect discrimination in the performance of their public duties
 - take positive steps to eliminate discrimination and promote equality

Once again, whilst the protection and provisions of this new Act are extended to some religious minority communities, like Jews and Sikhs, they are not extended to Muslims.

8. There are no moral or legal justifications for giving more comprehensive protection against discrimination to some religious minorities (e.g. Sikhs and Jews) whilst denying them to others (e.g. Muslims) who are clearly at risk of discrimination on the grounds of their religion.
9. The Human Rights Act 1998, in giving further effect to the rights in the European Convention of Human Rights (ECHR), provides some protection and provisions for all faith communities. However, its provisions are extremely narrow, prohibiting discrimination on the grounds of religion in relation to convention rights only. It does not address the anomalies created by the Race Relations Acts or compensate the gaps left by them.

Section 2: The Socio-Economic Status of the Muslim Community in Britain

10. As a result of the anomalies created by the Race Relations Acts and the gaps left by them, the defining experience of large numbers of Muslims in Britain today is of social exclusion, the *involuntary* marginalisation of Muslims from mainstream social, economic and political institutions. More specifically, the social exclusion of Muslims is a term which captures their experience as a group, who overwhelmingly suffer from a combination of linked problems (as evidenced from indicators for Pakistanis and Bangladeshis):
 - Low levels of skills and educationⁱⁱ
 - Higher rates of unemploymentⁱⁱⁱ
 - Low levels of incomes^{iv}
 - High levels of poor housing^v
 - High levels of bad health^{vi}
 - High levels of fear of crime^{vii}
 - High risks of being victims of crime^{viii}
 - Low levels of satisfaction with the police^{ix}

11. The Performance and Innovation Unit (PIU) Report 2001 confirmed the severe discrimination and disadvantage that Muslims face in their daily lives. The Report summarised the position of ethnic minorities in employment relative to Whites into a typology of three clusters:
 - Disadvantage confined to top jobs in large establishments: the Chinese and African-Asians
 - Relative disadvantage: the Indians and the Caribbeans
 - Severe disadvantage: the Pakistanis and the Bangladeshis^x

12. In relation to social and economic conditions the PIU Report on Ethnic Minorities in 2001 concluded that:
 - More than half of Pakistani and Bangladeshi households live in the 10% of the most deprived wards in England.^{xi}
 - Around one third of Pakistani and Bangladeshi households live in unfit properties in the private sector.^{xii}
 - Around 30% of Pakistani and Bangladeshi households live in 'poor neighbourhoods'^{xiii}

13. Fear of crime and the risk of being victims of crime are particularly acute causes of social exclusion. Recent evidence from the 2000 British Crime Survey confirms that:^{xiv}
 - ethnic minorities run greater risks of crime than white people, though this largely reflects the fact that minority populations are concentrated in large cities and in particular in conurbations where the crime risks are high for everyone, regardless of ethnicity. This trend confirms previous BCS research by Percy 1998 who concluded that ethnic minorities generally, and Pakistanis and Bangladeshis in particular, were at greater risk of victimisation than white people.
 - people from ethnic minorities worry more about crime than white respondents – a finding that held up even when account was taken of the sorts of area in which respondents lived, and their direct and indirect experience of crime.
 - *"Asian respondents, and Pakistanis and Bangladeshis in particular, are more likely than others to say that they felt 'very unsafe' at night, both in their homes and walking alone in their neighbourhood"*.

- *“Ethnicity can be a strong predictor of fear of crime even when other socio-economic and demographic variables have been taken into account; worry about crime was particularly salient among Bangladeshis and Pakistanis.”*
14. The issue of the fear of crime and the risk of being victims of crime by members of minority faith communities, or put another way, the issue of harassment and violence motivated by religious intolerance was addressed by the Government in the aftermath of 11th September. The Crime and Disorder Act 1998 was amended to extend protection to victims of crimes motivated by religious hatred. This extension of the law is much welcome, and we hope it goes some way towards assisting the Muslim community to be rehabilitated into the mainstream again. However, we believe that much more needs to be done before this can be achieved.
 15. Social exclusion is involuntary. However, extreme social exclusion can be a major contributory factor to the voluntary social isolation of certain sections of the Muslim community, who prefer to separate from mainstream social, economic and political activity. Social exclusion and social isolation are factors that have contributed to a breakdown in community cohesion that resulted in the public disorder in Bradford, Burnley and Oldham in 2001. The combination of social exclusion and isolation erodes Muslim identification with national legal, public and political institutions. We believe that these issues can be addressed through legal reform and that the European Framework Directives on Equalities provide us with just such an opportunity.

B. PROPOSALS FOR LEGISLATION

Section 3: The Scope of the Proposed Legislation

16. We welcome the introduction of the proposed legislation to combat religious discrimination in employment. The EU Framework Employment Directive (Council Directive 2000/78/EC of 27 November 2000) establishes a general framework for equal treatment. This requires the UK to introduce legislation no later than 2 December 2003 to outlaw discrimination on grounds of religion and belief. However, this is in relation to employment and occupation only.
17. After implementation Muslims will be protected from discrimination in employment and working conditions, including dismissals and pay, vocational guidance and training and membership of and employment in employers' or workers' organizations or professional bodies. The Government's proposals for implementing the Directives will, however, further reinforce the existing anomalies, as described above, and create new inconsistencies and inequities between minority faith communities. After the proposed implementation, unlike Sikhs and Jews, Muslims will still not be protected from discrimination in the following areas:

- (a) Social protection (including social security and health care);
 - (b) Education;
 - (c) Goods and services available to the public (including housing);
 - (d) Social advantages (e.g., housing benefit, student maintenance grants and loans, bus passes for senior citizens, etc.).
18. As shown by the recent PIU Report, Muslims experience severe discrimination and disadvantage in precisely these areas. Furthermore, such discrimination is likely to have intensified in the post 11th September period. Prohibiting religious discrimination in these areas is vital for the purposes of reintegrating the Muslim community into the mainstream and promoting the kind of social cohesion envisaged by the Home Office reports on the northern cities disturbances.
19. The government must go beyond the requirements of the EU Employment Directive to ensure protection against religious discrimination in all areas of life covered by the current race discrimination legislation. It is essential that:
- Muslims are protected against discrimination in areas beyond employment and in their access to and use of public services (e.g. housing, social services and education);
 - the main legal remedies for tackling the social exclusion of minorities which were introduced in the Race Relations Amendment Act 2000 are also extended to Muslims.

Such an extension of legislation is also needed to ensure equality of treatment between religious communities. Limiting religious discrimination legislation to employment threatens to reinforce a hierarchy of protection, with greater protection for some religious groups than others.

20. The development of anti-discrimination legislation in the UK has been a piecemeal one resulting in an inconsistent and overly complex area of law. The current anomalies serve to highlight that point. We recommend that at the earliest point possible, the Government amalgamates all areas of anti-discrimination legislation into one single Act, save where special circumstances apply. A single Equality Act would show the indivisibility of the principle of equality and encourage strong links between groups facing discrimination. It would place all grounds of discrimination on an equal footing, providing an equal level of protection to all groups that suffer discrimination. More importantly, the amalgamation would rid the area of anti-discrimination law from confusion, complexities and inconsistencies that currently exist.

Section 4: Legislative Procedure for the Implementation of the Directives

21. The government intends to implement the directives via secondary legislation; it intends to implement the directives through statutory instruments that will

amend the existing law rather than through an Act of Parliament. This will only result in further complexities and inconsistencies.

22. Moreover, this denies socially excluded groups, like Muslims, the opportunity to participate in mainstream political processes. Making parliamentary time and having a full debate about this issue would allow Muslims to be part of a national debate with politicians and other British citizens about their status and place in British society. Muslims would be able to lobby their political representatives to communicate their concerns. Most importantly, they would be able to see that mainstream political institutions, such as the House of Commons and House of Lords, are taking their key demands seriously. This is invaluable to promote the identification of Muslims with mainstream political and legal institutions.

Section 5: The Substance of the Legislation – General Cross-Cutting Issues

Direct Discrimination

23. The Race Relations Act 1976 defines direct discrimination as inequality that occurs when an employer treats someone less favourably on the grounds of their race than they treat others, or would treat others, in the same or similar circumstances. The Directives contain a similar definition.
24. It must be pointed out that these definitions do have their limitations. The definitions require a comparator whose relevant circumstances are the same or not materially different from those of the complainant. This principle can be satisfied by levelling down, i.e. treating members of the different groups equally bad, as well as levelling up, i.e. conferring benefits on both. Thus the principle of equal treatment can be satisfied without the applicant benefiting. Moreover, the definitions do not require intention on the part of the perpetrator; causation is sufficient. This 'but-for test', however, cannot easily be applied to religious discrimination, since, in the circumstances, the discriminator would have to be consciously aware of the applicant's religion or belief or perceived religion or belief, and therefore, intention would play a more prominent role if the actions of the perpetrator are to amount to religious discrimination. **[I think we should take this point out]**
25. However, for purposes of consistency and clarity, we support the Government's proposal to retain the current definition of direct discrimination as set out in the RRA 76 when preparing new legislation to outlaw discrimination on grounds of religion or belief. We also recommend that those suffering discrimination as a result of their perceived religion or belief, or their association with persons of a particular religion or belief, be included within the ambit of protection of the new legislation.

Indirect Discrimination

26. The definition of indirect discrimination under current legislation is inequality resulting from the common application of a rule or practice which is neutral on its face, but which has a disadvantageous effect upon the members of one sexual or racial group as opposed to another. If the conditions or requirements causing the disadvantage cannot be justified, there is likely to be indirect discrimination.
27. The current definition of indirect discrimination allows the perpetrator a broad defence of justification. Unlike direct discrimination, the justifications are not expressly laid down in the legislation itself. Instead, the circumstances in which the defence can apply are left open-ended.
28. According to the Directives, indirect discrimination occurs where an apparently neutral 'provision, criterion or practice' would place a person of a racial or ethnic origin or religion or belief at a particular disadvantage compared with other persons, unless such a provision, criterion or practice can be objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
29. This definition is better for several reasons. There is no reference included in the Directive to the criterion, provision or practice affecting a considerably larger proportion of one race or ethnic group than another, as there is in the Race Relations Act. The Directive states that indirect discrimination has occurred where 'a person' of a particular group has suffered a disadvantage. This moves away from the current requirement to show that the members of a group have been affected, not simply individuals. This also removes the emphasis on statistical evidence to support a claim of indirect discrimination. This is of important significance since it is not always possible to gather and provide statistical information about different proportions of racial groups/those of specific religion or belief. By removing such requirements, applicants will find it easier to prove the presence of indirect discrimination. Furthermore, the Directives' definition does away with the requirement that the applicant must have been subjected to adverse treatment. The applicant would be successful in an indirect discrimination claim if s/he can show that the provision, criterion or practice 'would' have the effect of putting the applicant in a disadvantageous position. Thus it would be possible to claim indirect discrimination if adverse treatment is anticipated. The new definition broadens the scope of indirect discrimination. Such a definition would force employers to carefully consider the practices that take place within the working environment. For example, recruiting by word of mouth of a predominantly Caucasian workforce may amount to indirect discrimination.
30. The Government proposes to use the definition of indirect discrimination set out in the Directives when preparing new legislation on religion or belief. As some amendments will have to be made to the RRA definition, the Consultation

Document offers two options. The first option is whether it should replace the existing provisions completely with the Directives' definition and the second is whether it should make a few technical changes to the existing provisions by including 'provision, criteria or practice' into the definition to allow the applicant to show that a 'considerably smaller proportion of his/her group can comply'. [Sultana - This last part of the sentence does not make much sense to me]

31. In our view, the definition contained in the Directives is far better to combat indirect discrimination. Moreover, in light of the Government's intention to apply the definition to indirect discrimination on grounds of religion or belief, we recommend that the Directives' definition also be adopted for racial discrimination. Different definitions will only create further confusion for both the courts and the employers. A single definition will ensure a consistent approach to the problem of discrimination.

Harassment

32. The definition of harassment, as contained in both the Directives, is unwanted conduct related to racial or ethnic origin taking place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
33. The Race Relations Act 1976 does not give a formal definition of 'racial harassment', but the development of case law concludes that racial harassment and abuse at work is a detriment amounting to 'less favourable treatment on racial grounds', which therefore constitutes unlawful direct discrimination. Thus, contrary to the Directives requirements, current legislation does not require an individual to demonstrate the existence of a hostile working environment in order to succeed with a harassment claim. Therefore, the Directives additional third element creates a stricter test than the current one.
34. The adoption of the Directives' definition would be in breach of the non-regression clause in the Directives (Article 8(2)), which prohibits the reduction in the level of protection afforded under current legislation. The Consultation Document offers two alternative proposals. The first is to retain the definition based on the decisions made by the Courts under the RRA for actions brought on the ground of race and to adopt the stricter definition for grounds of religion and belief. The alternative option is to adopt a definition across the board based on the level of protection currently afforded by the RRA. In our view, in the interest of equity, consistency and clarity, we should adopt the second option.
35. The Consultation Document also raises the issue of whether, in assessing if the conduct in question amounts to harassment, we should adopt the 'reasonable person' test. We recommend that the 'reasonable person' test be left out as this is a very vague construct which will only cause further inconsistencies.

Genuine and Determining Occupational Requirements

36. The Directives allow a difference of treatment if, by reason of the nature of the particular occupational activities concerned or the context, this constitutes a 'genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate'. The Government proposes to adopt the definition provided by the Directives.
37. We support the Government's proposal to adopt a general provision to allow different treatment where the characteristic related to racial or ethnic origin or religion or belief is a defining feature of the job. The advantage of a general justification defence is that it allows courts to respond flexibly to situations that may not have been considered when drafting.
38. The RRA currently has specific provisions related to certain jobs, these being dramatic performance or models for an artist or a photographer for reasons of authenticity; jobs involving the provision of personal welfare services, including welfare and education, which can most effectively be provided by a member of a particular racial group; and jobs in restaurants for reasons of authenticity.
39. For the purposes of consistency, we recommend that these specific provisions be removed from the RRA and replaced with the same general provision as on religious grounds, i.e., that differential treatment is permitted where it is a defining feature of the job. **[Makbool, Maleiha, Sadiq – we need your considered input here]**

Positive Action

40. Under the RR Act, employers are entitled to take steps to increase the proportion of certain under-represented groups in the workforce. For example, there are provisions which allow for encouraging applications from under-represented groups. Positive action may also include offering special training programmes to increase the potential of people from such groups. However, positive discrimination is unlawful.
41. Although not required, the Directives allow maintenance and adoption of positive action as a means of compensation for past disadvantage. The Government proposes that the new legislation allows similar positive action as currently available under the RRA. In keeping with current legislation, it also proposes the prohibition of positive discrimination.

[Prof Tariq, Maleiha, Everyone - the Consultation Document proposes that the new provisions on religion and belief should include positive action provisions comparable to the existing limited provisions in relation to encouraging applications and training permitted under the RRA; it does not propose extending these provisions. Positive discrimination will not be

permitted. These provisions are very limited and are underused – what sort of extension of these powers should we recommend?]

Burden of Proof

42. The Directives contain provisions that mirror the Burden of Proof Directive implemented by the UK in sex discrimination cases. One effect of this is that, once a complainant has established a prima facie case of sex discrimination before an employment tribunal, the burden of proof shifts to the employer to show that there is a non-discriminatory reason for its actions. Accordingly, the Consultation Document proposes to amend the Race Relations Act and the Disability Discrimination Act to bring them in line with the Sex Discrimination Act and to draft the new legislation along the same lines.
43. We agree with the Government's proposal and recommend that the burden of proof standards currently applied to sex discrimination cases be extended to all other grounds of discrimination. This can only assist consistency and clarity.

Post-Employment Protection

44. Current anti-discrimination employment law protects individuals until such time as the contractual relationship between the employer and the employee ends. In a limited way, individuals are also protected from discrimination prior to the formal establishment of a contract, i.e., in the process of the recruitment exercise.
45. There may be instances where similar protection is required after the employment contract has been terminated. For example, where an ex-employer decides to withhold a reference because the person concerned previously made a complaint of discrimination. Existing law already requires an employer who gives a reference to use reasonable care in its preparation and to ensure its accuracy.
46. Both Directives provide that the protection from discrimination should extend even after the relationship in which the discrimination occurred has ended. We agree with the Government's proposal to implement this provision.

Victimisation

47. Victimisation occurs when a person is treated less favourably than others by reason of their being involved in initiating, in good faith, a complaint under the RRA. This involvement may be in the form of bringing proceedings, giving information at proceedings brought by another, or alleging that there has been discrimination contrary to the Act.
48. The Directives require the introduction of provisions to protect such individuals from adverse treatment or consequences for their role in the

complaints or proceedings. Unlike current legislation, they require the extension of the protection even after employment has ended.

49. We endorse the adoption of these provisions for protection against victimisation on the grounds of religion or belief.

Remedies

50. To comply with the Directives' requirement to put in place an 'effective, proportionate and dissuasive' system of sanctions, the Consultation Document proposes that tribunals and courts should be given powers for the new strands of discrimination similar to those already in place under the RRA.
51. However, we would question how 'effective, proportionate and dissuasive' these are. We consider that there should be additional powers to require the discriminator to alter his/her practices so that discrimination cannot re-occur. We also consider that, in order to implement this aspect of the Directives, the courts and tribunals should be able to order remedies to correct the wrong that has been perpetrated. For example, if through discrimination the best candidate does not get the job, the tribunal should be able to order, if it is appropriate, that the candidate should be given the next available appropriate job.
[Everyone – can we have some input on this please]

Information Duties

52. The Directives place a duty on Governments to inform the public of the provisions under the Directives. Through the use of awareness raising campaigns we recommend that the Government promotes and disseminates the values and practices underlying the fight against discrimination. The Government should pay particular attention to raising awareness of the new strands of discrimination and the campaigns should start as soon as possible, even prior to the implementation of the Directives.

Dialogue with Non-Governmental Organisations

53. Both directives put the Government under a duty to encourage dialogue with non-governmental organisations which have a legitimate interest in contributing to the fight against discrimination. The Government must take this duty seriously and consult as widely as possible. FAIR is keen to be a partner in this dialogue and to assist in this challenge of addressing discrimination in every possible way that it may.

Section 6: The Substance of the Legislation – Specific Issues Related to the Employment Directive

Religion or Belief

54. The Directive does not define the term ‘religion or belief’. Consistent with the Directive, the Consultation Document proposes to leave the terms undefined except to clarify that political belief does not fall within the scope of the terms.
55. We agree that the terms should be left undefined and left to the courts to handle. A single universal definition or a list system for registering those that are deemed to have the relevant status, although may provide some level of certainty, poses problems of rigidity and may unfairly exclude some religions or beliefs. This undefined approach has been adopted with regards to Article 14 of the European Convention of Human Rights. Australia, Canada and the United States of America have also adopted this approach in anti-discrimination legislation that prohibits discrimination on the grounds of religion. We would suggest that the distinction being drawn between religious/philosophical belief and political belief is not helpful. Indeed, if such a distinction is necessary than it will be developed through case law.
56. We recommend that any interpretation of the terms should be consistent with the approach adopted by the European Court of Human Rights in relation to the Convention. Moreover, we recommend that the definition should include actual as well as perceived belief.

Genuine, Legitimate and Justified Occupational Requirements

57. The Directive allows specific exception where the person’s religion or belief is a genuine, legitimate and justified occupational requirement having regard to the organisations ethos which is based on a particular religion or belief. The exception cannot be used to create new restrictions on the basis of religion or belief, but only allows states to maintain existing legislation or to legislate in respect of existing national practices. However, it may only do so where the nature of the activities, or the context within which they are carried out, constitute a genuine, legitimate and justified occupational requirement, having regard to the organisation’s ethos. The Directive requires individuals working for such organizations to act in good faith and with loyalty to the ethos of the organisation. **[Is this too preachy???**
58. The exception goes beyond only churches to include ‘other public or private organisations the ethos of which is based on religion or belief’. Further clarification is needed as to which organisations fall within the scope of the exception. One option is to use general wording to refer to the organisations to which the exception applies. The problem that would arise from this approach is that it may be open to abuse by employers who would refuse to employ persons of other religions or beliefs on the basis that the ethos of the business is

of a particular religion or belief. The alternative, and better, option is to specify the types of organisations which fall within the exception. This should be done through a Code of Practice similar to that provided by the Northern Ireland Fair Employment Commission. The Code of Practice could provide clarification as to the meaning of an organisation that has an ethos based on religion or belief and which positions within the organisation are necessary in maintaining that ethos.

59. We strongly recommend that the exception of genuine, legitimate and justified occupational requirement should not allow discrimination on any other grounds other than religion or belief. **[Is this a little cheeky? Everyone – How do we address the issue of sexual orientation?]**

Section 7: Interim Institutional Arrangements

60. We fully endorse the Government's proposal to create a single Equality Commission. A single over-arching commission set up with specialist expertise bodies for the different strands will remove hierarchies as to the levels of protection afforded to different groups and avoid duplication of resources. Also where problems are intertwined and overlapping, a single agency is better to uncover problems and tackle root causes than a fragmented system. However, the timescale within which the Government is likely to introduce a single commission represents serious problems in that it continues to leave a vacuum with regards to institutional arrangements for the new strands of discrimination. With regards to religious discrimination, we have discussed four interim options for institutional arrangements.
61. The first option is to allocate the responsibility of dealing with religious discrimination to faith communities themselves, allowing tenders from local community organisations that possess the expertise to deal with such issues. However, the obvious problems are of frequency and locality of such bodies as well as allocation of resources. Setting up such bodies in areas that are heavily populated by certain religious groups would deny access to protection on such grounds to those living in isolation or in smaller religious communities. It would not be cost efficient to set up such bodies within every town. There is also the risk of marginalizing certain minority groups within a faith community by allocating the responsibility and resources to an organisation that may represent only the majority group within that faith community. The model will result in the creation of a hierarchy of provisions and protection afforded to different religious groups and sections within those religious groups.
62. The second option is to set up an interim body to deal with discrimination on the grounds of religion or belief. This would be in the form of the present Commissions, though perhaps on a much smaller scale. However, to develop infrastructure and expertise in such a body it will take some time. This could be useful if the single commission is intended to have a 'federal' structure. The interim body would then simply become one of the departments or divisions of

the federal structure. However, if there are no plans for a federal structure and the single commission is to come sooner rather than later than this may be an expensive option which may not deliver the results within the short term in which those results are expected.

63. The third option is to set up one interim body to deal with all the new strands. This would provide even more complications than the second option.
64. The final and our preferred option is to delegate the enforcement of religious discrimination legislation to the Commission for Racial Equality (CRE). This would be a logical extension of its current activities, particularly since differentiating discrimination on the two grounds could in some circumstances be very difficult. The CRE also possesses a wealth of experience and expertise from which victims of religious discrimination would benefit. However, if this option is adopted we would strongly recommend that a specialist unit, with its own Commissioners and budget, be set up within the CRE dedicated solely to dealing with religious discrimination. Such measures are necessary to avoid marginalisation within an organisation that has an established tradition and experience of only dealing with racial discrimination.

C. PRIORITIES FOR FUTURE NON-LEGAL REFORMS

Section 8: Policy Initiatives and Institutional Changes

65. Whilst civil anti-discrimination law reform is necessary, we believe it is insufficient on its own to address the extreme social exclusion experienced by Muslims. There is a need to develop policy initiatives and undertake institutional changes to ensure the mainstreaming of Muslims throughout the public and private sectors. Existing mainstreaming and policy initiatives are not sufficient to meet this goal because they do not specifically extend to non-ethnic religious minorities such as Muslims.

Mainstreaming

66. Mainstreaming allows public institutions and policy makers to have the chance to consider and put into place preventative procedures for assessing the impact of policy on the social exclusion of Muslims.
67. More specifically, the Government should use Policy Impact Assessment (PIA), which specifically targets socially excluded groups such as Muslims. This device allows those responsible for policy throughout Government to think about the impact of their policies on groups such as women and minorities. PIA allows comparison and assessment of the current situations and trends with expected results of the proposed future policy. PIA also allows policy makers to picture the effects of a given policy more closely. It can be applied to legislation,

policy plans, budgets, reports and existing policies. Policy Impact Assessment should be used as a policy tool by Central and Local Governments.

68. Mainstreaming also has the strategic advantage in that it is preventative and it makes public authorities and employers less vulnerable to costly anti-discrimination litigation.

Institutional Changes

The Home Office

69. The Home Office should extend its interest in race equality to specifically cover non-ethnic religious minorities such as Muslims, whose specific religious needs cannot be accommodated within the concept of 'race'. It should extend these criteria to all its projects on race so that Muslims are specifically included in its analysis.
70. Much of the work being done in the Home Office centres on the mainstreaming agenda: making race equality a core issue in the development of policies and the delivery of public services. The HO is promoting a performance management framework to put in place systems to identify any differential impact of a public service on different groups. The basket of race equality indicators is an example of this approach. These include high-level attitudinal data illustrating the comparative perceptions of public services among the population; specific performance data for key public services and promoting race equality within the Civil Service. This should be extended to cover non-ethnic religious minorities, such as Muslims.
71. Race equality is also a core issue for business planning. The HO has been working with Treasury to discuss how best to monitor race equality issues based upon the PSA/SDA mechanism, and there is a range of race equality employment targets across the public sector. This monitoring should be extended to cover non-ethnic religious minorities, such as Muslims
72. The Race Relations (Amendment) Act came into force in 2001. It extends the Race Relations Act 1976 to public functions, which were not previously covered, such as law enforcement. It will put all public authorities under a general statutory duty to promote race equality. In addition, some key public authorities, like central and local Governments, will have specific duties to fulfil. The Home Office is currently consulting on detailed proposals for implementation of the legislation. It is proposing to draft relevant secondary legislation. This consultation should be extended to cover non-ethnic religious minorities, such as Muslims.
73. The HO co-ordinates an Inter-Departmental Group on Race Equality (IDG), which meets around four times a year. All departments are represented. The

group is intended to provide a forum where issues relating to race equality can be discussed, and information exchanged. Departments can share experience and obtain information on race equality initiatives across Whitehall. Two IDG subgroups have recently been established. One group is looking at statistical issues including issues of cultural identity, and the other is considering communications and a race equality website. The work of the IDG should be extended to cover non-ethnic religious minorities, such as Muslims.

74. The Equality Unit at the Home Office should be given additional over-arching responsibility, in addition to existing responsibilities of various Departments, for overseeing policy on tackling the social exclusion of Muslims. This should include:

- Considering proposals for the implementation of the EU Employment Directive and assessing its impact on the social exclusion of Muslims. This will require co-ordination with whichever Government Department (Department of Trade & Industry or Cabinet Office) is given lead responsibility for implementation.
- Working with all parts of Government and across departmental boundaries on solutions to tackle the social exclusion of Muslims. In particular to consider the use of Policy Impact Assessment to address the problems of the social exclusion of Muslims.
- Co-ordination and consultation with the SEU and the PIU projects (see below) to develop research, analysis and policy initiatives.

The Social Exclusion Unit (SEU)

75. The Social Exclusion Unit (SEU) was set up by the Prime Minister in December 1997 with a specific mandate to overcome social exclusion. It works mainly on projects specifically chosen by the PM, following consultation with other Ministers and interested groups.^{xv} The SEU should be asked to investigate the social exclusion of Muslims and to develop effective policy responses to tackle this problem. Members of the SEU should be asked to visit and consult widely with Muslim organisations, businesses, households and Muslims with direct experience of social exclusion.

The Performance and Innovation Unit (PIU)

76. The Performance and Innovation Unit (PIU) has undertaken a new project to draw together a clearer shared understanding across Government of the current position and prospects of ethnic minority groups and to make recommendations about future policies. The project has a particular focus on labour market issues. The PIU should be invited to consider the specific issues relating to the social exclusion of Muslims in relation to commissioned research;

analysis and production of working papers and policy recommendations. The PIU should include individual Muslims and relevant Muslim organisations as 'key stakeholders' in its plans and ensure that they are consulted at all stages.

The Civil Service Race Equality Network

77. The Civil Service Race Equality Network launched by Sir Richard Wilson (the Cabinet Secretary) on 19 September 2001 should include the representation of non-ethnic religious minorities, such as Muslims, within its work to influence and advise upon policy and practice to advance race and religious equality within the Civil Service.

The Civil Service Reform Programme

78. The Civil Service Reform Programme that includes a diversity action plan should specifically include non-ethnic religious minorities, including, *inter alia*, targets, progress, mentoring and diversity awareness.

Research and Monitoring

79. All research and monitoring should include references and statistics for non-ethnic religious minorities, such as Muslims, as well as the present indicators of race and gender. This reflects the inclusion of statistics for religion in the national census. The following government surveys are of particular importance:

- Home Office statistics
- British Crime Survey
- Statutory obligations to present race indicators under section 91 of the Criminal Justice Act 1991

Section 9: Supplementary Measures

Participation in Public Life and the Public Sphere

80. Extreme *involuntary* social exclusion can result in voluntary social isolation. This problem is likely to become more acute since 11th September as the debate surrounding Islam and Muslims continues to dominate international and domestic politics. The risk of social isolation creates the risk of Muslims, especially young Muslims, joining fringe and extremist political activity. This form of group identity prevents identification with mainstream legal and political institutions. Traditional sources of national identification such as a common history, race, ethnicity, language, colour and religion no longer provide a viable and egalitarian basis for forming national identity and ensuring a cohesive and unified political community. Identification with the key national and state institutions is, therefore, especially important for ethnic

minority communities because it is the only form of inclusive national identification in multi-ethnic, multi-cultural and multi-faith communities. Identification with national legal and political institutions by minorities has a number of features:

- Equality of opportunity so that minorities do not experience discrimination in major aspects of their public and private life.
- Seeing key issues which concern minorities discussed and taken seriously in the common legal and political institutions of the State.
- Seeing members of their community represented in the key legal, public and political institutions of the state.

81. The changes to anti-discrimination law and mainstreaming through policy and institutional changes to overcome social exclusion, as recommended in Sections 3 and 8 respectively, will make a contribution towards encouraging identification with the State by Muslims. Additionally, increasing Muslim involvement in local and national political processes should be adopted as a long-term aim. Key actors such as Trade Unions and employer organisations can also facilitate the mainstreaming of Muslims in public life.

Public Representations of Muslims – the Media and Education

82. Muslims are committed to freedom of expression. They recognise the constitutional function and importance of a free media in a liberal democracy. They support the exclusion of State involvement in regulating the media. However, it is an important and legitimate function of Government to challenge prejudice and negative stereotypes that undermine critically important State interests: to protect all its citizens against violence, harassment and discrimination and to create a cohesive political community.

The Department for Culture, Media and Sport

83. The Department for Culture, Media and Sport has a role in developing and influencing the national public culture. It can prioritise public projects that act as an antidote to anti-Muslim bias in the media by presenting a more balanced image of Muslims and their civilisation to Muslims and non-Muslims throughout Great Britain.
84. A further initiative would be: (a) the involvement of Muslims in the forthcoming codification of voluntary codes of practice within broadcasting; (b) the appointment of nominees or representatives of Muslims/Muslim organisations to the Broadcasting Standards Commission and the Press Complaints Commission which monitor, supervise and implement voluntary codes.

85. The Department for Education and Skills supervises a range of policies to raise overall education standards that will benefit the ethnic minority population. It could be asked to specifically consider the needs of Muslim children.
86. Work is underway to address the issue of diversity via the National Curriculum. Citizenship became part of the non-statutory framework for Personal, Social and Health Education in primary schools from September 2000. It will become a statutory subject in secondary schools from September 2002. Within the new framework pupils will be taught from an early age to respect the differences between people, to appreciate others' feelings and points of view, to recognise the effects of stereotyping, prejudice, discrimination and racism and to develop the skills to challenge them assertively. These projects could specifically address issues relating to anti-Muslim attitudes.
87. It is also important to accommodate the needs of Muslims within mainstream educational institutions so that Muslim parents who prefer to send their children to these schools are provided with a viable alternative to faith based schools.

D. SUMMARY OF CONCLUSIONS & RECOMMENDATIONS

Section 1: Anomalies in Current Anti-Discrimination Legislation

88. The Government's existing commitments to equality and non-discrimination in relation to ethnic minorities are not sufficient to ensure coverage and protection for religious minorities such as Muslims. Existing anti-discrimination legislation and policy has consistently failed to address the specific problems faced by Muslims in all sectors of British society.
89. The Race Relations Acts outlaw discrimination on the grounds of colour, race, nationality and national or ethnic origin, but not on the grounds of religion or belief. Case law definition of 'racial group' includes ethnic religious minorities but excludes non-ethnic religious groups, such as Muslims. This leads to the anomalous situation where Sikhs and Jews, as minority faith communities, are fully protected against discrimination, but not Muslims. This in turn has resulted in inconsistency, inequity and a hierarchy of protection and provisions afforded to different ethnic minorities.
90. The Human Rights Act 1998 does not address the anomalies, inconsistencies, inequities and hierarchy of protection and provisions created by the Race Relations Acts or compensate the gaps left by them.

Section 2: The Socio-Economic Status of the Muslim Community in Britain

91. As a result of the anomalies, inconsistencies, inequities and hierarchy of protection and provisions created by the Race Relations Acts and the gaps left by them, the defining experience of large numbers of Muslims in Britain today is of social exclusion, the *involuntary* marginalisation of Muslims from mainstream social, economic and political institutions. The Performance and Innovation Unit (PIU) Report 2001 confirmed the severe discrimination and disadvantage that Muslims face in their daily lives.
92. Fear of crime and the risk of being victims of crime are also particularly acute causes of social exclusion. Recent evidence from the 2000 British Crime Survey confirms findings by Percy in 1998, who concluded that ethnic minorities generally, and Muslims in particular, were at greater risk of victimisation than others. The issue of harassment and violence motivated by religious intolerance was addressed by the Government in the aftermath of 11th September. The Crime and Disorder Act 1998 was amended to extend protection to victims of crimes motivated by religious hatred. This extension of the law is much welcome. However, we believe that much more needs to be done to rehabilitate the Muslim community into the mainstream again.
93. Social exclusion is involuntary. However, extreme social exclusion can be a major contributory factor to the voluntary social isolation of certain sections of the Muslim community. Social exclusion and social isolation are factors that have contributed to a breakdown in community cohesion that resulted in the public disorder in Bradford, Burnley and Oldham in 2001. The combination of social exclusion and isolation erodes Muslim identification with national legal, public and political institutions. We believe that these issues can be addressed through legal reform and that the European Framework Directives on Equalities provide us with just such an opportunity.

Section 3: The Scope of the Proposed Legislation

94. We welcome the introduction of the proposed legislation to combat religious discrimination. However, this is in relation to employment and occupation only. After the proposed implementation Muslims will still not be protected in many important areas where they experience severe discrimination and disadvantage. Such discrimination is likely to have intensified in the post 11th September period. Prohibiting religious discrimination in these areas is vital for the purposes of reintegrating the Muslim community into the mainstream and promoting social cohesion.
95. The Government's present proposals for implementing the Directives will only reinforce the existing anomalies, inconsistencies and inequities between minority faith communities. The government must go beyond the requirements of the EU Employment Directive to ensure protection against religious

discrimination in all areas of life covered by the current race discrimination legislation. It is essential that:

- Muslims are protected against discrimination in areas beyond employment and in their access to and use of public services (e.g. housing, social services and education);
- the main legal remedies for tackling the social exclusion of minorities which were introduced in the Race Relations Amendment Act 2000 are also extended to Muslims.

Limiting religious discrimination legislation to employment threatens to reinforce a hierarchy of protection, with greater protection for some religious groups than others.

96. As the development of anti-discrimination legislation in the UK has been a piecemeal one resulting in an inconsistent, iniquitous and overly complex area of law, we recommend that at the earliest point possible, the Government amalgamates all areas of anti-discrimination legislation into one single Act, save where special circumstances apply. A single Equality Act would show the indivisibility of the principle of equality and encourage strong links between groups facing discrimination. It would place all grounds of discrimination on an equal footing, providing an equal level of protection to all groups that suffer discrimination. More importantly, the amalgamation would rid the area of anti-discrimination law from confusion, complexities and inconsistencies that currently exist.

Section 4: Legislative Procedure for the Implementation of the Directives

97. For civil anti-discrimination legislation to contribute to reducing the extreme social exclusion of Muslims, we recommend further that the Government should implement the EU Employment Directive through primary legislation. This will have the advantage of allowing Muslims to participate in the public, media and parliamentary debate on this issue. Muslims will be able to see that the main political institutions in this respect are taking their main political demands seriously. As such, they are more likely to identify with these institutions.

Section 5: The Substance of the Legislation – General Cross-Cutting Issues

98. For purposes of consistency and clarity, we support the Government's proposal to retain the current definition of **direct discrimination** as set out in the RRA 76 when preparing new legislation to outlaw discrimination on grounds of religion or belief. We also recommend that those suffering discrimination as a result of their perceived religion or belief, or their association with persons of a

particular religion or belief, be included within the ambit of protection of the new legislation.

99. In our view, the definition contained in the Directives for **indirect discrimination** is better than the one contained in the RRA 76. Moreover, in light of the Government's intention to apply this definition to indirect discrimination on grounds of religion or belief, we recommend that the Directives' definition also be adopted for racial discrimination. Different definitions will only create further confusion for both the courts and the employers. A single definition will ensure a consistent approach to the problem of discrimination across the board.
100. In our view the adoption of the Directives' definition for **harassment** would be in breach of the non-regression clause in the Directives (Article 8(2)), which prohibit the reduction in the level of protection afforded under current legislation. We favour the alternative option of adopting a definition across the board based on the level of protection currently afforded by the RRA. We also recommend that, in assessing if the conduct in question amounts to harassment, we do not adopt the 'reasonable person' test as this is a very vague construct which will only cause further inconsistencies.
101. We support the Government's proposal to adopt a **general provision to allow different treatment** where the characteristic related to racial or ethnic origin or religion or belief is a defining feature of the job. The advantage of a general justification defence is that it allows courts to respond flexibly to situations that may not have been considered when drafting. Further, for the purposes of consistency, we recommend that the specific provisions in the RRA in this regard be removed and replaced with the same general provision as on religious grounds.
102. We also support the Government's proposal that the new provisions on religion and belief should include **positive action** provisions comparable to the existing provisions in relation to encouraging applications and training permitted under the RRA.
103. We agree with the Government's proposal and recommend that the **burden of proof** standards currently applied to sex discrimination cases be extended to all other grounds of discrimination. This can only assist consistency and clarity.
104. We endorse the adoption of provisions to protect individuals from **victimisation** or adverse treatment or consequences for their role in past complaints or proceedings on discrimination. We also agree with the Government's proposal to extend the **protection from discrimination to eventualities even after the relationship** in which the discrimination occurred has ended. We endorse the adoption of these provisions for the grounds of religion or belief.

105. To comply with the Directives' requirement to put in place an **'effective, proportionate and dissuasive' system of sanctions**, we recommend not only that tribunals and courts should be given powers for the new strands of discrimination similar to those already in place under the RRA, but also that there should be additional powers to require the discriminator to alter his/her practices so that discrimination cannot re-occur. We also consider that, in order to implement this aspect of the Directives, the courts and tribunals should be able to order remedies to correct the wrong that has been perpetrated. For example, if through discrimination the best candidate does not get the job, the tribunal should be able to order, if it is appropriate, that the candidate should be given the next available appropriate job.
106. We recommend that the **duty** that the Directives place on the Government **to inform the public** of its provisions be fulfilled through the use of awareness campaigns. We recommend that the Government promotes and disseminates the values and practices underlying the fight against discrimination. We urge that the Government should pay particular attention to raising awareness of the new strands of discrimination and the campaigns should start as soon as possible, even prior to the implementation of the Directives.
107. We recommend that the **duty** that the Directives place on the Government **to encourage dialogue with non-governmental organisations** which have a legitimate interest in contributing to the fight against discrimination be taken very seriously. We encourage the Government to consult as widely as possible. We are keen to be a partner in this dialogue and to assist in this challenge of addressing discrimination in every possible way that we may.

Section 6: The Substance of the Legislation – Specific Issues Related to the Employment Directive

108. We agree that the terms **'religion or belief' should be left undefined** and left to the courts to handle. A single universal definition or a list system for registering those that are deemed to have the relevant status, although may provide some level of certainty, poses problems of rigidity and may unfairly exclude some religions or beliefs. We would suggest that the **distinction** being drawn **between religious/philosophical belief and political belief** is not helpful. Indeed, if such a distinction is necessary than it will be developed through case law. We recommend that any interpretation of the terms should be consistent with the approach adopted by the European Court of Human Rights in relation to the Convention. Moreover, we recommend that the definition should include actual as well as perceived belief.
109. We strongly recommend that the **exception of genuine, legitimate and justified occupational** requirement should not allow discrimination on any other grounds other than religion or belief.

Section 7: Interim Institutional Arrangements

110. We fully endorse the Government's proposal to create a **single Equality Commission**. However, the timescale within which the Government is likely to introduce a single commission represents serious problems in that it continues to leave a vacuum with regards to institutional arrangements for the new strands of discrimination. Our preferred option for the interim period is to delegate the enforcement of religious discrimination legislation to the Commission for Racial Equality (CRE). However, if this option is adopted we would strongly recommend that a specialist unit, with its own Commissioners and budget, be set up within the CRE dedicated solely to dealing with religious discrimination. Such measures are necessary to avoid marginalisation within an organisation that has an established tradition and experience of only dealing with racial discrimination.

Section 8: Policy Initiatives and Institutional Changes

111. Whilst civil anti-discrimination law reform is necessary, we believe it is insufficient on its own to address the extreme social exclusion experienced by Muslims. There is a need to develop policy initiatives and undertake institutional changes to ensure the **mainstreaming** of Muslims throughout the public and private sectors. Existing mainstreaming and policy initiatives are not sufficient to meet this goal because they do not specifically extend to non-ethnic religious minorities such as Muslims.

112. These initiatives should be used to allow public institutions and policy makers an opportunity to consider and put into place preventative procedures for assessing the impact of policy on the social exclusion of Muslims. More specifically, the Government and policy makers should use **Policy Impact Assessment (PIA)** that specifically targets socially excluded groups such as Muslims.

113. **The Home Office** should extend its interest in race equality to specifically cover non-ethnic religious minorities such as Muslims whose specific religious needs cannot be accommodated within the concept of 'race'. It should extend these criteria to all its projects on race so that Muslims are specifically included in its analysis.

114. **The Equality Unit** at the Home Office should be given additional responsibility for overseeing policy on tackling the social exclusion of Muslims. This should include:

- Considering proposals for the implementation of the EU Employment Directive and assessing its impact on the social exclusion of Muslims.

- Working with all parts of Government and across departmental boundaries to develop solutions to the social exclusion of Muslims.
 - Co-ordination and consultation with SEU and PIU projects to develop research, analysis and policy initiatives.
115. **The Social Exclusion Unit (SEU)** should be asked to investigate the social exclusion of Muslims and to develop effective policy responses to tackle this problem. Members of the SEU should be asked to visit and consult widely with Muslim organisations, businesses, households and Muslims with direct experience of social exclusion.
116. **The Performance and Innovation Unit (PIU)** should be invited to consider the specific issues relating to the social exclusion of Muslims in relation to commissioned research; analysis and production of working papers and policy recommendations. The PIU should include individual Muslims and relevant Muslim organisations as ‘key stakeholders’ in its plans and ensure that they are consulted at all stages.
117. **The Civil Service Race Equality Network** should include the representation of non-ethnic religious minorities, such as Muslims, within its work to influence and advise upon policy and practice to advance race and religious equality within the Civil Service.
118. **The Civil Service Reform Programme’s** diversity action plan should specifically include non-ethnic religious minorities in relation to, *inter alia*, targets, progress, mentoring and diversity awareness.
119. All **research and monitoring** should include references and statistics for non-ethnic religious minorities, such as Muslims, as well as the present indicators of race and gender.

Section 9: Supplementary Measures

120. The changes to anti-discrimination law and mainstreaming through policy and institutional changes to overcome social exclusion, as recommended in Sections 3 and 8 respectively, will make a contribution towards encouraging identification with the State by Muslims. Additionally, increasing Muslim involvement in local and national political processes should be adopted as a long-term aim. Key actors such as Trade Unions and employer organisations can also facilitate the mainstreaming of Muslims in public life.
121. Muslims are committed to freedom of expression and recognise the constitutional importance of a free media in a liberal democracy. They support the exclusion of State involvement in regulating the media. However, it is an important and legitimate function of Government to challenge prejudice and

negative stereotypes that undermine critically important State interests: to protect all its citizens against violence, harassment and discrimination and to create a cohesive political community.

122. **The Department of Culture, Media & Sport** has an important role in developing and influencing the national public culture. It can legitimately prioritise projects that redress anti-Muslim bias in the media by presenting a more balanced image of Muslims and their civilisation to Muslims and non-Muslims in Britain.
123. They could also facilitate the involvement of Muslims in the forthcoming codification of voluntary codes of practice within broadcasting and the appointment of nominees or representatives of Muslims/Muslim organisations to the Broadcasting Standards Commission and the Press Complaints Commission which monitor, supervise and implement voluntary codes. This would reassure the Muslim community that the Government recognises their value as a legitimate and valuable faith community.
124. **The Department for Education & Skills** supervises a range of policies to raise overall education standards that will benefit the ethnic minority population. It could be asked to specifically consider the specific needs of Muslim children. Work is underway to address the issue of diversity via the National Curriculum. Citizenship became part of the non-statutory framework for Personal, Social and Health Education in primary schools from September 2000. These projects could specifically address issues relating to anti-Muslim attitudes.

ⁱ See, for example, the Muslim community's responses to the Anti-Terrorism, Crime and Security Bill 2001. The responses are available on request from the Forum Against Islamophobia & Racism (FAIR), Tel: 020 7531 1516.

ⁱⁱ Bangladeshi, Black and Pakistani pupils achieve less well than other pupils at all stages of compulsory education (Performance Innovation Unit Report (PIU Report): *Improving labour market achievements for ethnic minorities in British society*, at para.7, p.6. This report is referred to in references below. The report is available at: www.cabinet-office.gov.uk/innovation/2001/ethnicity/scope.shtml – as accessed on 3 November 2001).

ⁱⁱⁱ Caribbean, Pakistani and Bangladeshi men face a significantly higher unemployment rate (PIU Report at para.18, p.9).

^{iv} PIU Report at para.2, p.3.

^v PIU Report at paras.32-36, pp.12-13, confirms that:

- around one third of Pakistani and Bangladeshi households live in unfit properties in the private sector, compared to around 13% Black Caribbean and 6% White and Indian households.
- over a quarter of Bangladeshi and 20% of Pakistani households are overcrowded (as measured by the bedroom standard), compared with 8% of Indian, 7% of Black Caribbean and 2% of White households.

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- around 30% of Pakistani and Bangladeshi households live in 'poor neighbourhoods', as do 18% of Black Caribbean and 12% of Indian households (compared to only 6% of White households).
 - where ethnic minority households are housed in predominantly private sector poor neighbourhoods (particularly affecting Pakistani communities) problems are more likely to be around concentrations of run down homes (unfitness, disrepair and the need for modernisation).
- vi Pakistani, Bangladeshi and Black-Caribbean people are more likely to report suffering ill health than White people (PIU Report at para.2, p.3).
- vii Clancy, A., Hough, M., Aust, R., and Kershaw, C. (2001) *Crime, Policing and Justice: The Experience of Ethnic Minorities – Findings from the 2000 British Crime Survey* (BCS), London: Home Office, 2001). Clancy et al confirm that people from ethnic minorities worry more about crime than white respondents – a finding which held up even when account was taken of the sorts of areas in which respondents lived, and their direct and indirect experience of crime (at p.100). Significantly, "Asian respondents, and Pakistanis and Bangladeshis in particular, are more likely than others to say that they felt "very unsafe" at night, both in their homes and walking alone in their neighbourhood." (see at p.90, Figure 7.1). They confirm that 'ethnicity can be a strong predictor of fear of crime even when other socio-economic and demographic variables have been taken into account; worry about crime was particularly salient among Bangladeshis and Pakistanis.' (at p.xii).
- viii Clancy et al concluded that the British Crime Survey 2000 confirms previous research, which found that ethnic minorities run greater risks of crime than white people, though this largely reflects the fact that minority populations are concentrated in large cities and in particular in conurbations where the crime risks are high for everyone, regardless of ethnicity (see note vii at p.100). This confirms previous BCS research by Percy in 1998, who concluded that ethnic minorities generally, and Pakistanis and Bangladeshis in particular, were at greater risk of victimisation than white people (see Clancy at p.9).
- ix Clancy et al (n.vii above at p.53) confirm that in an assessment of police performance by ethnic group, for all age groups, Pakistani and Bangladeshi respondents rated the police lower than other groups:
- 'Satisfaction with police response to sought contact was highest amongst white respondents, and Pakistanis and Bangladeshis were the least satisfied. This trend was found across several different aspects of police performance.'
 - 'Barely half of respondents were satisfied with police efforts to keep them informed following their enquiry; dissatisfaction was greatest amongst Pakistanis and Bangladeshis.'
- x PIU Report at p.32.
- xi PIU Report at para.36, p.13.
- xii PIU Report at para.32, p.12.
- xiii PIU Report at para.35, p.12.
- xiv For references see endnotes vii-ix above.
- xv The SEU is located within the office of the Deputy Prime Minister in the Cabinet Office and reports to the PM through the Deputy Prime Minister. Ministerial Oversight for the Government Programme on Social Exclusion is with the Domestic Affairs (Social Exclusion and Regeneration) Sub-Committee, which assists the work of the Domestic Affairs Committee (former Home and Social Affairs Committee).