

## SUBMISSION FROM COALITION FOR RACIAL EQUALITY AND RIGHTS

### **About the Coalition for Racial Equality and Rights**

The Coalition for Racial Equality and Rights (CRER) aims to protect, enhance, and promote the rights of minority ethnic communities across all areas of life in Scotland, and to empower minority ethnic communities to strengthen their social, economic, and political capital. CRER adopts a rights-based approach to working, and promotes relevant international, regional, and national human rights and equality legislation and conventions.

CRER works to eliminate racial discrimination and harassment, and to promote racial justice across Scotland by engaging with public sector organisations, advocating for race equality and human rights, supporting minority ethnic communities to secure and enjoy their rights, and promoting race and rights education in the wider community.

### **Our Submission**

We are attaching the submission we have made to the Scottish Parliament's Equal Opportunities Committee for their inquiry into **“Removing Barriers: Race, Ethnicity and Employment.”**

We think there is potentially a great deal that the Economy, Energy, Tourism Committee could learn from the EOC inquiry, and this gives you an ideal opportunity to ensure that issues of racial equality are properly featured in your own inquiry.

As well as our own individual submission (as below), around 50 other submissions have been made to the EOC Inquiry, and we hope that this Committee will have an overview of these to pick up on any issues relevant to your own inquiry. Of particular relevance may be the SPICe briefing on 'ethnicity and employment' that has been produced for the EOC Inquiry and is available at [http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB\\_15-31\\_Ethnicity\\_and\\_Employment.pdf](http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_15-31_Ethnicity_and_Employment.pdf)

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**Scottish Parliament Equal Opportunities Committee**

**Inquiry into “Removing Barriers: Race, Ethnicity and Employment”**

### **Summary of CRER Submission:**

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*We believe that there is Positive Discrimination taking place in Scotland in relation to employment of people from certain ethnic groups. It is Positive Discrimination in favour of White people.*

*Despite long-standing legislation outlawing racism in employment practices, and many short-term projects that have attempted to deal with the issues, employment inequality is a major contribution to the continuing disadvantage faced by BME communities in Scotland.*

*The evidence showing that employment inequality exists, and the reasons why are well documented, and it would be a mistake for this inquiry to merely replicate previous findings.*

*There is a lack of meaningful action to tackle racial inequalities in the Scottish labour market, even a denial that a problem exists. Calling for additional short-term actions without analysing why previous efforts have failed would be another mistake.*

*It is easy for employers and public authorities to look only at supply-side issues as in the main they can either say it is not their problem or throw some money at some voluntary sector group and assume that is the issue dealt with.*

*Unless we begin to deal with institutionalised racial discrimination in the labour market then the current situation will remain unchanged.*

*There are meaningful measures that can be taken that will directly improve BME employment rates – if there is a will in Scotland to take meaningful action.*

*The proposed devolved powers contained in the Scotland Bill may allow the Scottish Parliament/Govt to impose some meaningful positive action to be adopted in Scotland.*

*We need senior politicians and other stakeholders to acknowledge there is a real problem here and to show a level of urgency and leadership in terms of tackling labour market racial inequalities in Scotland.*

*We call for a Race, Ethnicity and Employment Task Force to be established to examine the issues in more detail, drive forward delivery and report back in the new Parliamentary session.*

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## **Submission from the Coalition for Racial Equality and Rights**

### **Introduction:**

The Coalition for Racial Equality and Rights (CRER) is a Scottish anti-racist organisation which works to eliminate racial discrimination and promote racial justice

across Scotland. We are funded by Glasgow City Council (to take forward race equality work in Glasgow), by the Scottish Government (to assist with the development of the Government's new Race Equality Framework 2016-2030) and by the Joseph Rowntree Charitable Trust (to undertake wider anti-racist public affairs activities throughout Scotland).

We view employment inequality as a major contributor to the continuing disadvantage faced by Black minority ethnic communities in Scotland, and this is why we argued strongly that the Scottish Parliament's Equal Opportunities Committee make race and employment its key theme when the committee undertook its' initial consultation on what the focus of its race-related inquiry should be in early 2015.

Evidence suggests that positive interaction between people from different ethnic backgrounds erodes prejudicial attitudes and helps build cohesive and integrated communities. This interaction can take place in neighbourhoods and communities (i.e. where people live), in social and cultural arenas (where people play) and in employment (where people work).

Of these three aspects of people's lives, achieving integration in the workplace *should* be the easiest. However, there is ample evidence that people from Black minority ethnic backgrounds suffer disadvantage in the labour market. Whilst some of this may be due to capacity issues within some Black minority ethnic communities themselves (but as we say below, this is not the main issue, and one that affects a minority only), we would argue that much of this is down to structural discrimination in the labour market and to racial discrimination by employers. The disadvantage in employment often leads to a knock-on effect, leading to, for example, increased poverty amongst people from Black minority ethnic communities, and a lack of provision of appropriate services.

We realise that much of equality and employment legislation is reserved, but urgent and major action is needed to address the gross racial inequalities in the Scottish labour market if Scotland is truly to become the equal egalitarian nation it wants to become. We therefore applaud the Equal Opportunities Committee for establishing this inquiry and hope to see real action and change resulting from its findings.

We would be only too happy to provide further written or oral evidence to the Committee on these important issues.

### **Race, Ethnicity and Employment – The legal requirements:**

The need to eliminate racial discrimination in employment has been legally recognised ever since the Race Relations Act 1968 which made it illegal to refuse employment to a person on the grounds of colour, race, ethnic or national origins. The revised 1976 Act placed an additional general statutory duty on local authorities to "make appropriate arrangements with a view to securing that their various functions are carried out with due regard to the need— (a) to eliminate unlawful racial discrimination; and (b) to promote equality of opportunity, and good relations, between persons of different racial groups."

Following the Macpherson Inquiry into the murder of Stephen Lawrence, in 2000 the Act was further amended to place public authorities (not just local authorities) under new statutory duties to *promote* race equality. The aim was to ensure public authorities *proactively* provide fair and accessible services, and improve equal opportunities in employment. In relation to achieving fair employment practices, the Act required all listed public bodies to monitor by racial group for staff in post, and applications for employment, promotion and training. Employers with over 150 staff were also required to monitor uptake of training, results of performance appraisals, numbers involved in grievances and disciplinary action and reasons for staff leaving their employment. The monitoring data was required to be published annually. These requirements were largely unchanged by the revised Scottish Specific Public Sector Equality Duties that came about as a result of the Equality Act 2010, **with the important addition that public bodies are now also required to use the gathered information to better perform the general equality duty and to detail the progress they have made in gathering and using this information.**

Nearly 50 years after the original legislation, and despite all the changes brought in since then, the disparity in employment outcomes for white and non-white people in Scotland are still great, and do not really show signs of diminishing.

### **Race, Ethnicity and Employment – The evidence:**

As reported by SPICe in their Briefing on Ethnicity and Employment:

The 2011 Census recorded 4% of the Scottish population as being from a (non-white) minority ethnic origin;

In terms of educational attainment, the average tariff score achieved was higher for **all** non-white school leavers than for white Scottish pupils;

Despite the better (on average) educational attainment (at school), and their subsequent higher participation rate in higher or further education, non-white groups aged 25-49 have a significantly lower employment rate (55.2%) than their white counterparts (72%), and a higher unemployment rate (7.9% compared to 5.5%);

Despite common mythology, the self-employment rate for white and non-white groups aged 16/24 and 25/49 are not significantly different (1.6% and 1.3% for 16/24, and 8.9% vs 9.6% for 24/49 year olds).

In addition, we also know:

From Census 2011 data, around 60% of people of Pakistani origin, the largest non-white minority ethnic group in Scotland, were born in the UK, and many of the remaining 40% will have lived (and been educated) in the UK for a lengthy period of time;

From Census 2011 data, of all non-white groups, the group with the lowest ability to 'speak, read and write English' or 'speak, but does not read or write English' is the Chinese group, with figures of 85% and 6%. This means that for people of Chinese origin, only 9% have a problem with speaking English, and the figure for other non-white groups is 8% or lower;

Whilst it would be unusual for employers to confess to direct racial discrimination, CRE research into the private sector labour market in 2000 found that a quarter of employers with no equality programme in place believed that formal equality policies were 'divisive' and when asked if they would initiate a racial equality programme, the majority of respondents said 'No' even if they were convinced it would reap commercial benefits;

The 2009 DWP Test for Racial Discrimination in recruitment practices, which matched job applications from white and minority ethnic applicants found that in Glasgow, applicants with minority ethnic sounding names were 21% more likely to be rejected than those with 'white' sounding names;

Despite having duties to collect employee monitoring information since 2002, public bodies in Scotland are still struggling to record the ethnic make-up of their workforces – e.g. NHS Lothian only has ethnicity information on 59% of its staff, and even the Scottish Government has no knowledge of the ethnicity of 20.9% of its workforce;

CRER's own research (State of the Nation: ethnicity and employment in Scotland's public sector, 2014), showed that across the public sector, whilst the overall proportion of all non-white applicants exceeded their proportion within the Scottish population (perhaps debunking the myth that black minority ethnic people do not apply for public sector posts), the inequality of outcomes for black minority ethnic short-listed candidates being appointed compared to their white counterparts was stark. It would be reasonable to assume that candidates who have been shortlisted have met the minimum requirements of the person specification for advertised posts, so certain factors (e.g. qualification requirements) can be discounted for in attempting to explain the difference in outcomes. But there must be reasons as to why, for example, as our research found, only 17.7% of non-white people interviewed for local authority jobs were appointed, compared to a figure of 31.9% for white interviewees. The compounded disparity between white and non-white applicants who are shortlisted and then appointed leads to a situation where 7.1% of all white applicants for public sector posts go on to be appointed, but where only 4.4% of non-white applicants get appointed.

This figure is at its starkest in large public sector organisations – where Black minority ethnic applicants only have a 1.1% chance of being subsequently appointed, compared to 8.1% for their white counterparts. Even within local authorities, white applicants are almost three times more likely to be successful in securing a post than non-white applicants – 6.1% compared to 2.1%.

### **Race, Ethnicity and Employment – The lack of meaningful action:**

From time to time, Government and other stakeholders seem to realise that there is a problem and set up short-term working groups and draw up action plans to try and tackle the problem.

So, for example:

in 2006, the Scottish Executive established a Strategic Group on BME labour market participation which set an aspiration to eliminate racial inequality in the labour market by 2013;

also in 2006, the Equal Opportunities Commission in Scotland published its report on the 'employment of visible ethnic minority women in Scotland';

the 2008 Scottish Government Race Equality Statement committed to negotiate with public sector bodies and set targets for the employment of black minority ethnic people by March 2011;

from 2008 till 2010, Glasgow Works had an ethnic minority sub-group, had appointed a Policy manager to take the race agenda forward and had developed an action plan to tackle labour market inequalities in the city.

And the above are just examples of initiatives in Scotland – many issues raised by UK-wide activities and research would also have a direct bearing on the Scottish position.

However, despite all of this, the position of Scotland's Black minority ethnic communities in relation to the labour market continues to remain bleak, and in some cases is even getting worse. Calling for additional short-term ad hoc interventions will be unlikely to change things.

In addition, where action is supported, it tends to be focussed on supply-side issues, as if the issue was that all Black minority ethnic people cannot speak English, are poorly skilled or lack educational qualifications. Undoubtedly, these issues will be a factor for some people, but the issue of poor skills and qualifications are not race specific issues. For sure, for newer migrants, there may be issues relating to a need for ESOL provision, recognition of their overseas qualifications, or a lack of UK-based work experience, etc., but as the data shows, this affects only a minority of people from Black minority ethnic communities in Scotland. Rather, Scotland's Black minority ethnic communities have a youthful and well-qualified potential workforce who all too often are unemployed or under-employed.

It is easy for employers and public authorities to look only at supply-side issues as in the main they can either say it is not their problem or throw some money at some voluntary sector group and assume that is the issue dealt with.

For example, in relation to PQ S4W-24413 asked by John Mason on what the Scottish Government has done to improve the employment rate for Black minority ethnic people, the only answer given by Annabelle Ewing was that 'we will provide over £5.2million over the period 2012/15 to support organisations working with ethnic minority communities to develop and improve their employability skills and access to employment.' To give another example, COSLA in its 2011 response to the then proposed specific equality duties, stated that "in the case of recruitment often the issue is not discrimination but ensuring that those with a disability of from BME communities have the relevant skills and experience for particular jobs."

CRER would argue in the strongest possible terms that the Equal Opportunities Committee should deal with the supply-side issues and the demand-side issues

separately – and we agree that dealing with institutionalised racial discrimination in the labour market will not be an easy topic to take on, but unless we begin to do so then the current situation will remain unchanged.

Notwithstanding the general requirement on all employers to not discriminate on racial grounds, it is generally accepted that the public sector need to be more proactive in pushing for equality and equal outcomes. In employment, the Scottish Specific Duties require listed bodies to, each year, gather information on the composition, recruitment, development and retention of their employees, and to detail the progress they have made in gathering and using the information they have collected. Whilst most bodies do now publish details on the composition of their workforce (albeit with a large percentage of unknown or declined data) it often proves difficult to obtain the information on applicants, exits, promotions, etc., and near enough impossible to find bodies that have published any information on how they have (or plan to) use the data.

### **Action - Positive Action?**

In terms of race and employment, very limited positive action measures are allowed, and positive discrimination in recruitment and promotion is all but illegal. As such, we believe that a system similar to ‘Two Ticks’ would fall foul of the law as it currently stands.

Most positive action initiatives (when these can be found) are aimed at capacity building and skills development and as we have argued above, whilst these are certainly necessary for some, especially for newer migrants, for most Black minority ethnic people in Scotland a more pressing matter is the elimination of direct and institutional racism.

We do not know of any examples of use of the ‘tie-break’ as allowed by the Equality Act 2010 – where, given two equal candidates, employers can legitimately opt for one who has a protected characteristic that is under-represented in their workforce, but such an option may be more viable when an employer is recruiting a pool of potential applicants – e.g. if the Scottish Fire Service has some set basic criteria that it requires of all potential fire-fighters, it could create a pool of all who meet this basic standard, and it may be possible to use the tie-break method to ensure that the pool was ethnically mixed - we accept that even this model may be challenged in an employment tribunal, but such an initiative may help them improve on the 0.45% BME workforce that they have as of December 2014. The Scottish Government could use a similar model for its graduate entry programmes.

There are other measures that would also help improve BME employment rates – e.g. some research has shown that merely having a Black minority ethnic person on an interview panel improves the employment rate of BME candidates, the (re)-establishment of BME employee forums might help with retention rates, the setting of BME employment targets, always going for open recruitment (as opposed to word of mouth, or sub-contracting to employment agencies that may not share the same ethos of equality as the employer – (e.g. we understand that the Scottish Government uses recruitment agencies from time to time), taking steps to include a greater number of BME people as interns and work experience placements, and providing detailed feedback to all applicants on why they failed to make the cut.

Asking equality-related questions at all interviews may also help improve the culture of organisations in that appointing more people who believe in tackling discrimination can only be a good outcome for all.

Recently, it is being said more and more that the problem is one of unconscious bias. We believe in the statement that it is racism in another name, and only seems to become unconscious bias when people are found out. In any case, if the outcome is differential treatment on the grounds of race it is still unlawful. We find the complacency of employers, especially large public sector employers to be of great concern. How else, for example, can the figures showing white applicants in local authorities are almost three times more likely to be successful in securing a post than non-white applicants go unnoticed and un-actioned?

The proposed devolved powers contained in the Scotland Bill currently going through the UK Parliament which will allow “provision that supplements or is otherwise additional to provision made by (the Equality Acts 2006 and 2010); (and) in particular, provision imposing a requirement to take action that the Acts do not prohibit” may allow the Scottish Parliament and the Scottish Government to impose some of the above suggestions for meaningful positive action to be adopted in Scotland.

Finally, there is not just a lack of recognition of the problem, there is a lack of any urgency to do anything about it and there is, prior to the EOC establishing this inquiry, **a lack of any leadership** on this issue in Scotland.

CRER believes that the overall problem of BME employment in Scotland is really no different to the specific problem of BME recruitment into the Metropolitan Police in London – but in London, the Chief Constable, Sir Bernard Hogan-Howe, has called for a change in the law to allow 50/50 recruitment – which in broad terms means that a white officer can be recruited only if a BME officer is hired at the same time. This is similar to policies adopted in Northern Ireland to get a better balance of Catholics and Protestants in the workforce. We need senior politicians and other stakeholders to show the same level of urgency and leadership in Scotland.

## **Conclusion**

We have great hopes for the inquiry that the Scottish Parliament Equal Opportunities Committee has established. Not least because the issue is real and the need for action is urgent.

We strongly urge a separation of supply-side and demand-side issues, or to be more blunt, a focus on ‘settled’ BME communities whose main difference with their white counterparts is their ethnicity and the colour of their skin.

We hope that the Inquiry will not replicate the many previous recommendations that have been made on race and employment issues in Scotland, but rather examine why previous efforts have failed, and also ask the main employers in Scotland what specific, measurable actions they intend to take to rectify racial imbalances in their workforce.

And as the task before us all is huge, and the time for a full Inquiry is short, we support the call that a Race, Ethnicity and Employment Task Force be established that can examine the issues in more detail, drive forward delivery and report back to the EOC in the new Parliamentary session.

**Jatin Haria**

Coalition for Racial Equality and Rights

"Maybe we now realize the way a racial bias can infect us even when we don't realize it so that we're guarding against not just racial slurs but we're also guarding against the subtle impulse to call Johnny back for a job interview but not Jamal."

Barack Obama, Eulogy for Senator Clementa Pinckney

Charleston, South Carolina, June 2015