Respect for All: The National Approach to Anti-Bullying for Scotland’s Children and Young People

Written Submission from the Coalition for Racial Equality and Rights
October 2016

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. Our primary interest in relation to Respect for All lies around racist incidents and racist bullying. We have previously undertaken research in this area and have been involved in the Equality and Human Rights Commission’s Good Relations in Schools project steering group, which oversaw further research and policy development in this area in 2015.

Following communications (including requests for involvement in this policy process) submitted to John Swinney MSP, Cabinet Secretary for Education and Skills, we have been invited to provide comments on a late-stage draft of Respect for All. As we have been given less than two weeks to comment on this (which has been done in addition to our scheduled workload for this period), this response is necessarily brief and is being completed without knowledge of the policy development process so far.

Nonetheless, CRER welcomes this opportunity to comment on a late-stage draft of Respect for All. However, as this opportunity has only arisen as a result of our repeated lobbying activities and has extremely restrictive timescales, we wish to make it clear from the outset that we do not regard this as a process of involvement or engagement.

Our comments are presented here in three sections, with recommendations highlighted in bold throughout:

- Concerns around the policy development process
- Comments on the content of Respect for All
- Issues not currently reflected in Respect for All
Concerns around the policy development process

Communications from Scottish Government received in response to the two letters sent by CRER to Mr. Swinney have outlined the policy development process for *Respect for All*. Whilst we appreciate the fact that this is regarded as a revision or refresh of an existing policy rather than a new policy, the need for adequate involvement of stakeholders is clear. Indeed, the various forms of involvement described suggest that there is an awareness of its vital importance to the policy development process.

Throughout all of the examples given, it appears that much effort has been put into involving children and young people, parents, carers and practitioners. However, there is no information to suggest that any of this has been targeted at minority ethnic communities or disaggregated to take account of the specific issues facing minority ethnic young people around racist incidents and prejudice based bullying.

There has also been no involvement to date of organisations focussing on race equality, despite the presence of many equality focussed organisations within the broader range of organisations involved. For example, the Working Group rightly includes several organisations with experience around bullying and LGBT equality. The Young Experts Group also has a membership with expertise on issues affecting LGBT young people and looked after children and young people, but no-one with a background in race equality or anti-racism.

As stated in our previous letter to Mr. Swinney, the importance of racism within the context of prejudice based bullying cannot be underestimated. Research undertaken by organisations involved in the *Respect for All* working group\(^1\) highlighted that bullying based on race or ethnicity was the most frequently cited form of prejudice based bullying by teachers, with over half of teachers confirming that this goes on within their school.

We therefore believe it to be unacceptable that the communities most impacted by prejudice based bullying, and those organisations which represent their interests, have not been actively targeted and the issues appropriately considered in the involvement process. Implementing *Respect for All* without appropriate consultation and involvement is contrary to the participative democracy approaches being promoted within the Scottish Government and the principles of the Christie Commission. It is also contrary to the advice given on policy development at p.15 of this draft of *Respect for All*; “…experience has shown that the most effective policies are developed in consultation with everyone they impact upon.”

\(^1\) Lough Dennell and Logan (2015), *Prejudice-based bullying in Scottish schools: A research report*
We also note the limited evidence base referenced within *Respect for All*. It particularly references respectme’s *Bullying in Scotland 2014* report. As this is now unavailable online, we were unable to ascertain whether it looked in any depth at prejudice based bullying, or whether the survey was disaggregated to explore differences in experience for minority ethnic young people.

It is understandable that stakeholders are anxious to receive the revised strategy and begin their own processes of implementation. However, this would be counterproductive. Implementing policy which does not sufficiently reflect the priorities, needs and experiences of minority ethnic people is the root of institutional racism. For this reason, new or revised policies are required by law to be Equality Impact Assessed, with adequate information considered as part of that process (we assume that this has been done in line with the legal requirement, however we have not been provided with information about any Equality Impact Assessment of *Respect for All*).

We would strongly urge Scottish Government to **publish a draft version of *Respect for All* to allow for a period of engagement**, ensuring that the views of those most affected by prejudice based bullying can be better reflected in the final document.

We would also recommend that Scottish Government **incorporate information gathered through engagement with minority ethnic people and those who represent their interests into the Equality Impact Assessment of *Respect for All*, and publish the results**.

**Comments on the content of *Respect for All***

We welcome the fact that Brian Donnelly, Director of respectme, has kindly inserted comments reflecting some of the suggestions made by CRER on one section of a forthcoming respectme toolkit.

We were asked by the Scottish Government to provide these comments, and submitted them to respectme on 2\textsuperscript{nd} August 2016. This was followed up with an email on 8\textsuperscript{th} August where we clarified that we understood respectme were currently involved in the refresh of the National Approach and requested to be informed of how we could engage with the policy development process. We did not receive a reply on this point.

Although our comments on the toolkit section cannot be regarded as engagement around *Respect for All*, this draft uses some of the same wording. To avoid repetition, we will not reiterate the comments made in regard to the toolkit section here.
Where appropriate, the comments provided in this section will be set out in the order in which the relevant text appears in the current draft of *Respect for All*, to allow for easy reference and/or editing where this is felt to be appropriate. These comments relate only to issues within our area of work and do not reflect the broader composition or wider content of the document.

Due to the need to be brief, positive feedback is not included here in any detail. We would note, however, that the elements of the section on prejudice based bullying which stress the importance of understanding, responding to prejudice and addressing the root causes of prejudice are most welcome.

Our overarching concern is that whilst in some ways the document is strong on ethos around tackling prejudice based bullying, it lacks a practical focus. There is very little detail on what local authorities and schools should do, and how they should do it. We know from previous experience that this will lead to retrograde steps in policy and practice – our previous research\(^2\) found that the lack of concrete requirements on racist incident recording led to a weakening of practice after the initial surge in activity following the Macpherson report.

**P.2, quotation box:** At this point and in several other places, the document states that ‘Bullying takes place in the context of relationships.’ **We would contest this, especially in relation to racist bullying.** Children and young people will often experience one-off incidents of behaviour undertaken by people who they have never met before (or in some cases, for example vandalism of personal property or cyber-bullying, they may never meet the person). It is not a relationship, but how the perpetrator of this behaviour relates to people of particular ethnicities as a group, which creates the context.

**P.10, Prejudice based bullying:** We would strongly urge the Scottish Government not to include non-protected characteristics within ‘prejudice based bullying’. The Equality and Human Rights Commission Scotland uses this term extensively, but does not use it in reference to non-protected characteristics. CRER and many other organisations which have worked for many years on issues of prejudice based bullying do not use the term in this way either. If the Scottish Government presses ahead with this change in definition, it risks muddying the waters to a dangerous degree.

As we previously commented in relation to respectme’s forthcoming toolkit, if we assume that prejudice can be based on almost anything, then virtually every instance of bullying is arguably based on prejudice. This downplays the

\(^2\) CRER (2012), *Racist Incidents in Scotland’s Schools*
very specific implications of prejudice based bullying for groups who are
marginalised within society, most of which are protected characteristic groups.

It would be stronger for Respect for All to state that bullying can be based on
many different forms of prejudice, but when we talk about prejudice based
bullying, we are focussing on those groups most at risk of facing prejudice -
protected characteristic groups. This would also assist schools in accurately
recording incidents of prejudice bullying. If incidents of bullying based on
weight, for example, are recorded as ‘prejudice based bullying’ this will make a
school’s data on the total number of prejudice based bullying incidents
meaningless in the context of their legal obligations on equality.

P.11, Hate crime: As we previously commented in relation to respectme’s
forthcoming toolkit, the line ‘A hate crime can take a number of forms that are
potentially a form of criminal harassment’ muddles different sections of law in
a potentially confusing way. Harassment is an offence in its own right, however
many hate crimes are simply not harassment in the legal sense. In 2014-15, for
example, almost half of all racially aggravated offences were an offence other
than harassment. Furthermore, if something is a hate crime then it is definitely
criminal – not ‘potentially criminal’. Given the relatively simple explanation
given throughout the rest of this section, it would be less confusing for
people if this sentence were removed.

The inclusion of the sentence ‘The decision to proceed will rest with the Crown
Office and Procurator Fiscal Office’ without first explaining that a police
investigation will take place first is also potentially confusing for people
without knowledge of this policy area (as is using the term ‘decision to
proceed’ without expanding on what this means in practice). We would
suggest amending the text to address this.

P.15, Policy development: Whilst the focus on involvement of those affected
within the policy development process is welcome, there could be stronger
emphasis on ensuring equality within involvement. Also, we would suggest a
change in terminology within the sentence ‘Cultures that encourage respect,
celebrate difference and promote positive behaviour…’.

As stated in our comments on respectme’s forthcoming toolkit, we have good reason to believe
that terms such as ‘celebrate difference’ and the ethos underlying them are
leading to counterproductive practices which entrench racial stereotypes and
exoticize people from minority ethnic communities. Further detail on this is
available in our publication Changing the Race Equality Paradigm.

We would suggest that better practice can be encouraged with a rights based approach

to language, for example the sentence could be reworded to read ‘Environments that promote respect, equality and positive behaviour...’.

**P.15, Principles:** The fourth principle states that all types of prejudice based bullying should be treated with equal importance. The intention behind this may be laudable, but in practice this is not a good way to make policy. **Evidence of need should be the deciding factor as to how much importance is placed on tackling any one form of bullying.** Equality is not achieved by treating everyone the same, but by tackling disadvantage in a pro-active and proportionate way. This is especially concerning when the definition of prejudice based bullying being deployed here covers a number of non-protected characteristics.

**P.15-16, Anti-bullying policies:** Although local authorities are mentioned at the beginning of this section, there is a lack of clarity throughout about the role of local authorities in policy development. In particular, it is recommended that schools should develop individual policies, but there is no mention of these being developed in line with central policy from the local authority. This weakens the ability of education authorities to ensure consistent practice across institutions locally, particularly around incident reporting, and could result in a postcode lottery for children and young people affected by bullying where many schools will fail to put adequate policies in place. **We would strongly urge the Scottish Government to explicitly state that local authorities should develop a central policy which is equality impact assessed and includes minimum requirements to be incorporated into individual school policies.**

**P.16, Policies should include:** The inclusion of an explicit commitment to challenge all forms of prejudice based bullying and language is positive. However, **our previously stated concerns about the inclusion of non-protected characteristics also apply here.**

**In regard to equality impact assessment, more information on when this is appropriate would be welcome.** Crucially, policies developed at local authority level will have to be equality impact assessed as education authorities are listed public bodies for the purpose of the Scottish Specific Public Sector Equality Duties. This is not the case for individual schools, and whilst some may choose to equality impact assess, this is unlikely to be the norm as schools are not generally familiar with the process. This is another strong argument for ensuring that school policies are based on a centrally developed local authority policy.
P.17, Support and training: The phrase ‘...including those protected under the Equality Act 2010...’ could be misleading. Although terms such as ‘those who share protected characteristics’ are a convenient shorthand, it is important to reinforce that everyone is protected by the Equality Act 2010 in relation to some of the protected characteristics (including, for instance, race and sex). This could also be usefully detailed as part of the explanation of protected characteristics given at p.27.

P.18, Policy and practice expectations: We would echo the comments made by Brian Donnelly in regard to strengthening the emphasis on prejudice based bullying throughout this section.

Although at several points there is a stated expectation that institutions will ‘Take action to promote equality and diversity and children’s rights, and provide training relevant to these areas’, this could be related to bullying more explicitly. Much of the generic activity undertaken in the education sector around ‘promoting equality and diversity’ will have little effect in preventing or tackling prejudice based bullying. We would suggest a stronger wording, for example ‘Take action to tackle stereotypes and prejudice and to promote children’s rights, including providing training which equips staff to do this effectively’.

The wording in this section could be more consistent, for example individual services that are part of an organisation or governing body are not subject to the expectation that they will ‘treat people with respect’, whereas independent / voluntary services are.

This section also lacks emphasis on dealing with incidents of bullying. In fact, there is no specific stated expectation that this will be done at all. This is especially concerning because this is one of the most crucial areas of policy and practice. In many cases, we hear that people are aware of how to report incidents and do so successfully, but no action is taken (or in some cases, the action taken actually worsens the situation for the child or young person as staff are more concerned with minimising potential accusations of racism than they are with addressing racism itself; this is a key feature of institutional racism in Scotland’s schools).

We would suggest that, for the relevant services and schools, an expectation should be added along the following lines: ‘Resolve incidents of bullying proactively, using a respectful, proportionate and holistic approach which takes account of the impact of the incident as well as any underlying prejudice or other negative attitudes.’
P.21, Approaches to preventing bullying: We would reiterate our previously stated concerns regarding the statement that ‘Bullying takes place in the context of relationships.’

We note that although the introductory text to the first bullet pointed list in this section mentions promoting equality and challenging inequality, none of the bullets themselves relate to challenging inequality in a specific and meaningful way. If possible, more emphasis on tackling prejudice and discrimination would be welcome here (although in our experience, effective strategies and programmes in this area are rare and we would urge caution in mentioning any programmes which have not been adequately evaluated).

P.22, Responding to bullying: The bullet pointed list of questions to ask when responding to incidents could be strengthened significantly by the addition of an extra point to reflect important considerations. Firstly, in order to be effective, responses need to incorporate an understanding of the factors underlying the incident (especially in terms of prejudice based bullying). An example of an appropriate question would be ‘What attitudes, prejudices or other factors have influenced the behaviour?’ Although impact is an important consideration, it must be remembered that even unsuccessful attempts to bully must be dealt with (as detailed on p.11). Including this additional question would reduce the likelihood of impact becoming the overriding consideration.

P.23, Recording and monitoring bullying incidents: We would strongly urge Scottish Government to include a template, or at least specific instruction for minimum recording requirements, with an appropriate level of detail on how data should be processed, collated and used at local and national level within Respect for All. A common standard must be achieved nationally, with central collation and publication, if data is to be used in a meaningful way. This is particularly true for prejudice based incidents. The data gathered needs to be appropriately disaggregated to provide a baseline for policy development both locally and nationally. This will ensure that the need to tackle specific forms of prejudice continues to be taken seriously.

This issue has been highlighted in several other arenas in recent months. In particular, we would stress that within the UN Committee on the Elimination of Racial Discrimination (CERD) Concluding Observations, Recommendation 35a is for the state party (including devolved nations) to “Strengthen efforts to eliminate all racist bullying and harassment in the State party’s schools, including by requiring schools to collect qualitative and quantitative data on bullying and school exclusions on grounds of race,
colour, descent, or national or ethnic origin, and to use the data to develop concrete strategies.” Scottish Government will be required to report on this at the next CERD examination.

Evidence by the Equality and Human Rights Commission (EHRC) to CERD focussed significantly on these issues, and in particular, EHRC Scotland called the Scottish Government to ensure Scottish schools collect qualitative and quantitative data on identity-based bullying across all the protected characteristics, use this information to inform strategies to protect victims and share this data with other agencies involved in reducing prejudice based bullying.\(^4\)

The Report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion also highlighted the inconsistency of current approaches and stated that opportunities should be taken at national level to influence, regulate and monitor the approach of schools, with further tools and drivers required to support all schools to reach a common standard.\(^5\)

These recommendations have arisen through widespread recognition that the current laissez faire approach is failing children and young people. An unreasonably defensive attitude around racism in schools has developed over recent years, and losing this opportunity to revitalise effective recording will only serve to entrench it. Refusing to acknowledge the extent of racist and other prejudice based incidents in schools will not make the problem go away; if anything, it will be allowed to flourish as there will be no concrete evidence to inform action.

If Scottish Government decides not to implement reasonable processes to allow data to be recorded and published consistently and transparently, there will be no way to improve the current patchy approach detailed in our own research as well as that conducted by working group members. It is understood that the education sector is not comfortable with discussions around racism, preferring to focus on positive approaches which are intended to be preventative (but in our view, often fail in this). \textit{It should be remembered that prioritising the avoidance of discomfort around racism within institutions over the need to tackle racism affecting children and young people would be a clear demonstration of institutional racism.}

\(^4\) CERD (2016), \textit{Concluding Observations: United Kingdom of Great Britain and Northern Ireland}.  
\(^5\) EHRC news article dated 4\textsuperscript{th} August 2016  
P.31, Appendix 2, Prejudice based bullying: Again, we feel that the title of this section is inappropriate and would prefer to see this terminology used only in relation to protected characteristics. However, there is no harm in detailing the different factors underlying bullying together in the same section. If our concerns in regard to this are taken on board, this section could remain the same with only a title change. The section on age muddles the general concept of prejudice, which can apply in schools, with the legal concept of discrimination. This could be confusing for readers and would benefit from an amendment. It would be useful to mention at the sections on asylum seekers and refugees and Gypsy/Travellers that many incidents of bullying against these groups will be racist in nature. As well as outlining the links between these sections, this could also reinforce the fact that there can be legal implications around equality law and hate crime in relation to some types of bullying against these groups. The addition of a line such as ‘Some bullying behaviour against these groups may be of a racist nature, which can have equality law and hate crime implications.’ (Care should be taken to ensure clarity that only some incidents would be racist; even within the broad legal sense of racial discrimination, which includes many groups which have not suffered racialization, there will be exceptions. For example, discrimination against occupational travellers has been established not to be racial discrimination.)

P.31, Intersectionality: The current wording places race and ethnicity separately. For consistency with the Equality Act 2010, these would be better placed together.

P.31, Race: In addition to the amendment added by Brian Donnelly, a few additional changes could significantly strengthen this section. Firstly, as mentioned in our comments on respectme’s toolkit, we would strongly support a change in title from ‘race’ to ‘Racism and race’, mirroring the language used at the section on sex discrimination (‘Sexism and gender’). As previously mentioned, we have serious concerns about the downplaying of racism in school contexts, and using this terminology here explicitly would help to address this. It would be useful to note the role of stereotypes in wider society in creating racist behaviour. The current wording (which focuses on the status of groups within a school, community or organisation) suggests that this status is somehow isolated from wider social norms and structures, whereas these are the primary influence creating the negative behaviours schools, communities and organisations have to tackle.
We would urge caution in relying on the concept of ‘minority’ when discussing race. Although the size of a group can have some impact, the racialization of specific ethnic groups by groups with more power in society is the key factor. The dominant group in Scotland is the majority ethnic community and more broadly, white communities. However, being a ‘minority’ within a school isn’t a necessary factor determining experience of racism. Racist bullying still occurs in schools in England where the majority of pupils are minority ethnic. It’s not about the size of the group, it’s about the dominant ethnic group being considered ‘normal’ and other groups being considered as ‘different’ and less valuable.

P.31, Religion or belief: The second sentence here could be worded more accurately. Lack of awareness is not the primary factor underlying stereotyping. Someone can be very aware of cultural or religious traditions and practices, but still link these with stereotypes about the value and character of the relevant group.

Discriminatory behaviour often stems from a desire to regulate behaviour and enforce social norms. When learning opportunities are badly delivered, this tendency can become stronger as participants learn about ‘different’ traditions, beliefs and etiquette.

We would discourage creating the impression that children and young people must learn everything about the traditions and practices of any group in order to reduce prejudice. This knowledge is beneficial to the education and world view of children and young people if delivered appropriately, but does not reduce prejudice on its own (and can in fact entrench prejudice if delivered poorly). Creating a culture of respect, encouraging consideration of commonality as well as difference and ensuring positive contact between groups of people is far more important.

In the final sentence of this section, it would be worth also pointing out that people are protected from discrimination on the grounds that they do not share a particular religion or belief. For example, someone who is Sikh would be protected from discrimination carried out on the grounds that they are not Christian. That person could not be described as having ‘no religion or belief’, but would still be protected to the same extent as atheists, agnostics etc. in the same situation.
Issues not currently reflected in *Respect for All*

Although most of our comments relate to factors included to some degree within *Respect for All*, there are a few issues which lie outwith the scope of the current draft.

One of our most vital concerns lies around what we assume to be an intention to subsume racist incidents into the (now unnecessarily) broad category of ‘prejudice based bullying’. Under racist incident recording systems, use of racist language or promotion of racist ideas within schools would be appropriately resolved and recorded even if no ‘bullying’ had taken place. No mention of racist incidents policy or practice is made in the current draft of *Respect for All*, and is vital that this should be addressed. **If racist incident processes where no bullying has occurred are recommended to continue as before, this should be made clear. If not, there must be a clear equivalent mechanism within *Respect for All* as part of the preventative approach.**

We would also highlight the fact that the current draft has no links to the commitment within the Scottish Government’s *Race Equality Framework 2016-30* to ensure that ‘Minority ethnic pupils have confidence in, and are effectively supported by, approaches in schools to prevent and respond to prejudice-based bullying and racist behaviour or incidents.’ The Framework also contains an action to ‘Ensure that equality and intercultural competency training resources are developed and made available to practitioners at all stages of their careers – through initial teacher education, induction and career long professional learning’, which would be of relevance to *Respect for All*. **Reference to these commitments and how *Respect for All* supports them would improve the coherence of Scottish Government policy.**

**Conclusion**

We hope that our comments will prove useful in ensuring that *Respect for All* effectively reflects the importance of tackling racist incidents and prejudice based bullying.

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