



SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 113TH SESSION, 5TH - 23RD AUGUST 2024

Review of the Twenty-Fourth to Twenty-Sixth Periodic Report on the United Kingdom's Compliance with the UN Convention on the Elimination of Racial Discrimination

INTRODUCTION

This submission to the United Nations Committee on the Elimination of Racial Discrimination (“**CERD**”) in relation to its combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain under the International Convention on the Elimination of all Forms of Racial Discrimination (“**ICERD**”) is made by the Black Equity Organisation (“**BEO**”).

We acknowledge and are very grateful for the support of Hogan Lovells International LLP and A&O Shearman LLP ~~for their support~~ in compiling this submission.

BEO is an independent, national Black civil rights organisation created to dismantle systemic racism, drive generational change and deliver better lived experiences for Black communities in the United Kingdom. Structural racism is a key factor in racial inequality and BEO was established to work with all Black African, Black Caribbean and Black mixed heritage communities in the UK.

We stand in solidarity with other race equality and social justice organisations nationally and internationally. It is for this reason that BEO are signatories to the submissions made by Amnesty international and Runnymede Trust, Children’s Rights Alliance for England (CRAE) part of Just for Kids Law and Action for Race Equality (ARE).

There is not one homogeneous Black community in the United Kingdom, there are many Black communities and those communities are themselves made up of individuals with different identities. As a result of multifaced identities interactions with the State and private actors mean that multi forms of oppression can be experienced simultaneously. Black Equity Organisation recognises that the intersection of race with sexism, ableism, homophobia, ageism, socio economic status and classism can have devastating effects on the lives and life chances of members of Black communities.

The Black Equity Organisation focuses on six issues that affect Black communities in the United Kingdom:

- Economic empowerment and equity of opportunity

- Justice immigration rights
- Culture awareness representation and respect
- Education
- Neighbourhood and housing
- Health Wellness and care

These issues are covered in the published “*List of themes in relation to the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland*”¹ (“**Themes**”):

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¹ CERD/C/GBR/Q/24-26

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Article 1(1) of ICERD defines “racial discrimination” as “*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life*”.

The racial inequality and disparity that is experienced by Black and racially minoritised communities in the United Kingdom is evidence that the definition is not accurately and fully complied with.

Data collection (Article 1 and 2)

The UK Public Sector Equality Duty (“PSED”), introduced by the Equality Act 2010, requires public bodies to consider how their policies and decisions affect people protected under the Act. PSED crucially covers the three main aims:

- (a) eliminate unlawful discrimination, harassment and victimisation,
- (b) advance equality of opportunity between people who share a protected characteristic and those who don’t
- (c) foster good relations between people who share a protected characteristic and those who do not.

All too often Public bodies are unable to show that they have ~~had~~ given due regard to these aims and their decision-making processes, because they have failed to collect and collate disaggregated data. Therefore, while the PSED is binding, its impact can depend on how rigorously it is implemented and enforced. There have been several instances where PSED in the UK has not been adequately applied where Black communities have been disproportionately impacted, leading to significant criticism of the PSED and its subjective application, as highlighted by for example the Windrush Scandal 2018, Lammy Review 2017, Grenfell Tower Fire 2017, and police stop and search practices.

Recommendations –

- United Kingdom to publicly and formally acknowledge the existence of structural and systemic racism.
- Fully implement the definition of ICERD.
- Ensure rigorous enforcement and monitoring of the Public Sector Equality Duty. Systematic collection and publication of statistics showing the effectiveness of PSED.
- Adequately fund and resource the Equality and Human Rights Commission (EHRC) so it can pursue its enforcement powers effectively.

Legislation and policies (Article 2)

Recommendations

- In order to effectively recognise intersectionality and the multi layered discrimination faced by Black individuals the United Kingdom should bring into force section 14 Equality Act 2010.
- In recognition of the impact of socio economics and the intersection with discrimination the United Kingdom should bring into force section 1 Equality Act 2010.
- Incorporating CERD into domestic law and providing a framework for its implementation, ensuring that civil society Organisations (CSO) are involved as well as representatives of racialised groups.
- Based on the need to recognise intersectionality the UK government should also incorporate into domestic law the following UN Conventions -
 - UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).
 - UN Convention on the Rights of People with Disabilities (CRPD).
 - UN Convention on the Rights of the Child (CRC).
- Confirm the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024.
- Confirm that all aspects of the Human Rights Act will be maintained and upheld.
- Appoint a Cabinet Minister to oversee equality and discrimination issues.
- Commit to fully implementing all 30 of the Windrush Lessons Learned Review recommendations.
- Set up a public inquiry of the Windrush Scandal.
- Commit to removing the Windrush Compensation Scheme from Home Office control with it being governed independently, with a simplified application process.
- Engage in a policy to set out a process of restorative justice that recognises the legacy of colonialism and the Atlantic slave trade.

Hate crime/speech – (Article 4)

According to [StopHate UK](#), racially motivated hate crimes are the highest reported type of Hate Crime in the UK. A total of 109,843 racially aggravated offences were recorded in 2021/2022 – an increase by 19%²

In the year ending March 2023, the [Home Office](#)³ reports that there were 145, 214 hate crimes, two thirds (70%, 101,906) were racially motivated.

Black homophobic hate crime

There has been a complete erasure of the lived experience of Black people and people of colour in government statistics, the 2017 LGBT Britain survey and the Sewell report failed to identify or address the impact of racism and discrimination on LGBTQI+ Black people and people of colour.

The We Will Be Heard UK Black Pride Report 2021⁴ recorded that 47% of respondents had been insulted, pestered, intimidated or harassed in person. This was compared to 20% of white respondents in the 2017 LGBT Britain survey. Of respondents who had experienced violence or harassment 56% felt that it had been motivated by their race or ethnicity, and 47% felt that it had been motivated by their sexuality.

Regarding discrimination and exclusion in public spaces many respondents found public spaces to be unsafe for them and were forced to adjust their behaviour. 54% of respondents agreed that they would feel uncomfortable walking down the street while holding their partner's hand as compared to 36% of white respondents to the 2017 LGBT Britain survey.

61% agreed that they avoided certain streets because they do not feel safe there as compared to 28% of white respondents to the 2017 LGBT Britain survey.

45% said they adjusted the way they dressed in public because of fear of discrimination and harassment as opposed to 20% of white people surveyed in 2017 LGBT Britain survey. (page 30 We will be heard).

29% of trans and 30% of non-binary respondents said they do not feel safe in the street or area where they live, as compared to 17% of respondents to the 2017 LGBT Britain survey.

Recommendations

- The intersection of race, sexuality, disability and gender identity should be included in all government statistics when collating data about LGBTQI+ individuals.
- Accurate collating, recording and monitoring of disaggregated data on the reporting of hate crime, prosecution and sentencing.

² <https://www.stophateuk.org/about-hate-crime/racism-in-the-uk/>

³ <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2022-to-2023/hate-crime-england-and-wales-2022-to-2023>

⁴

https://static1.squarespace.com/static/5c7687174d87112ad57fc819/t/6194f30dcea6433f35a14f77/1637151508280/WWBH_FINAL_2021_v2-compressed.pdf

- Properly funded support for victims of hate crime and intersectional homophobic/race hate crime

(ARTICLE 5)

Representation of Black people in political and public affairs

While in recent years both the percentage of the general population and politicians from minority ethnic backgrounds has risen, in most democratic institutions there is a disparity which results in unequal representation.

Interestingly, the UK Parliament does not hold any official data on the ethnic backgrounds of Members of Parliament (“MPs”), but it is estimated that of the 650 MPs elected in the 2019 General Election, 66 were from an ethnic minority background.⁵ In percentage terms, this is about 10% of the members of the House of Commons, compared to 16% of the UK population.

In the devolved nations, official Scottish Parliament statistics show that 6 Members of the Scottish Parliament (“MSPs”) from an ethnic minority background were elected to Holyrood at the last election in May 2021.⁶ This is 4.5% of the total members, compared with 12.9% of the Scottish population reporting that they had a minority ethnic background in the last Scottish Census.⁷

Notably, none of the 90 Members of the Northern Irish Assembly are reported as being from a minority ethnic background, despite making up 3% of the population. Finally, in Wales, 5% of the Members of the Welsh Parliament are from a minority ethnic background, compared to 6.3% of the Welsh population.⁸

Recent research from the think tank British Future projects that the Parliament following the next General Election will be the most diverse yet, based on an analysis of final candidate selections. In order for numbers to stay aligned with the general public, it would be useful for Parliament and political parties to collect disaggregated data on ethnicity, in order to have a firmer idea of gaps in effective representation.

Voter ID

The 2024 General Election was the first where voters were required to bring an identification document with them, following the introduction of Voter ID in the Elections Act 2022. Electoral Commission research that was conducted following the May 2023 local elections in

⁵ House of Commons Library, “Research Briefing: Ethnic diversity in politics and public life” (2023) <https://commonslibrary.parliament.uk/research-briefings/sn01156/>

⁶ Scottish Parliament, “Scottish Parliament Statistics 2021-2022” (2023): <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2023/11/28/aaa2ad63-b6ae-4ae4-9e49-e2c4593316d7#2cfe91a1-093d-4c05-878b-6bc63b1ae862.dita>

⁷ Scotland’s Census, “Scotland’s Census 2022 - Ethnic group, national identity, language and religion” (2024): <https://www.scotlandscensus.gov.uk/2022-results/scotland-s-census-2022-ethnic-group-national-identity-language-and-religion/#:~:text=The%20percentage%20of%20people%20in, had%20a%20minority%20ethnic%20background.>

⁸ Office for National Statistics, “Ethnic group, England and Wales: Census 2021” (2022): [https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/bulletins/ethnicgroupenglandandwales/census2021#:~:text=In%20Wales%20the%20percentage%20of,%22%20was%201.6%25%20\(49%2C000](https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/bulletins/ethnicgroupenglandandwales/census2021#:~:text=In%20Wales%20the%20percentage%20of,%22%20was%201.6%25%20(49%2C000)

England found that awareness of the new rules was lowest among Black and minority ethnic communities – 82% compared to 93% of white respondents.⁹

Further, a report from the All Party Parliamentary Group (“**APPG**”) on Democracy and the Constitution which was published in September 2023 used very strong language when they said that *“The current voter-ID system is, as it stands, a ‘poisoned cure’ in that it disenfranchises more electors than it protects.”*¹⁰ The report quotes research from Democracy Volunteers, which found that over half (53%) of those turned away from polling stations were non-white.

Indeed, prominent now former Conservative MP Jacob Rees-Mogg was quoted as saying that voter ID had “come back to bite [the Conservatives]” after the local elections.¹¹

Recommendations

- Reverse requirement for Voter ID by abolishing the Election Act 2022.
- Introduce automatic voter registration for all 18 year old British citizens.
- That the UK parliament and all political parties monitor and publish disaggregated ethnicity statistics.

Inequality in infant and maternal mortality rates

There is overwhelming evidence of a disparity in the maternal health care received by Black women and the postpartum death rates.

In the period 2019 to 2020, the mortality rate was 37.2 per 100,000 for Black women giving birth, compared with 9.7 per 100,000 for White women giving birth.¹² Black women are four times more likely than White women to die during pregnancy and childbirth and up to six weeks after.¹³ The Office for National Statistics figures released in June 2024 showed black and Asian infants continue to have the highest rates of mortality – Asian 5.7 and black 6.8 per

⁹ The Electoral Commission, “Voter ID at the May 2023 local elections in England: interim analysis” (2023): <https://www.electoralcommission.org.uk/research-reports-and-data/our-reports-and-data-past-elections-and-referendums/voter-id-may-2023-local-elections-england-interim-analysis>

¹⁰ All Party Parliamentary Group on Democracy and Constitution, “Voter ID- What went wrong and how to fix it” (2023): <https://static1.squarespace.com/static/6033d6547502c200670fd98c/t/64ff05b5797e5a2707ddf3fb/1694434746644/VI+D+Inquiry+Report+FINAL.pdf>

¹¹ BBC, “Local elections 2023: Voter ID backfired on Tories, says Rees-Mogg” (2023): <https://www.bbc.co.uk/news/uk-politics-65599380>

¹² pg. 5, MBRRACE-UK, “Saving Lives, Improving Mothers’ Care: Lessons learned to inform maternity care from the UK and Ireland Confidential Enquiries into Maternal Deaths and Morbidity 2019-21” (2023), https://www.npeu.ox.ac.uk/assets/downloads/mbrance-uk/reports/maternal-report-2023/MBRRACE-UK_Maternal_Compiled_Report_2023.pdf.

¹³ *ibid.*

1,000 live births in 2022 up from 4.8 and 6.6 respectively in 2021. For white families the rate is 3.1 deaths per 1,000 live births.¹⁴

In May 2022, a comprehensive and in-depth report was published by Birthrights, an inquiry into racial justice in maternity care.¹⁵ This was seen at the time as ground-breaking and authoritative. In response, the UK Government set up the ~~Maternity Disparities Taskforce~~ Maternity Disparities Taskforce¹⁶ to explore women's health before and during pregnancy which confirmed that the *“Data shows there is an almost two-fold difference in mortality rates between women from Asian ethnic groups and white women, and they are also higher for Black women. Black women are 40% more likely to experience a miscarriage than white women, and women living in deprived areas can have higher rates of stillbirths.”*

A survey conducted by Five X More involving over 1,300 Black women also revealed disparities in the maternal health care received by Black women more generally. Many of the women flagged insufficiencies in the maternal health care received, with 43% not having their pain relief options explained to them and 52% of women not receiving a choice of pain relief said there was no explanation as to why it was not given to them.¹⁷ Additionally, 61% of women who experienced miscarriage or pregnancy loss reported not receiving additional support following their pregnancy.¹⁸

Causes of disparities in maternal health care

Some of the maternal health care outcomes may arise due to a lack of confidence in the health care system. The survey found that 36% of survey respondents were not confident to ask for help on the postnatal ward and 43% of the women reported feeling discriminated against of which 51% believed the reason to be race and 18% ethnicity related.¹⁹

Additionally, research commissioned by the UK Department of Health into the causes of the disparities in maternal health care, have revealed various biases impacting health care outcomes, with the three most frequent being:

- (d) “not like me”: a lack of understanding of cultural and socio-economic factors,
- (e) complexity of health issues: the women who pass away often experience multiple and complex health issues which the health care system is not addressing sufficiently; and

¹⁴ ONS, “Child and infant mortality in England and Wales: 2022” (2024): <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/childhoodinfantandperinatalmortalityinenglandandwales/2022>.

¹⁵ Birthrights, “Systemic Racism, not Broken Bodies” (2022): <https://birthrights.org.uk/campaigns-research/racial-injustice/>

¹⁶ UK Government, “New taskforce to level-up maternity care and tackle disparities” (2022): <https://www.gov.uk/government/news/new-taskforce-to-level-up-maternity-care-and-tackle-disparities>

¹⁷ pg. 21, FiveXMore, “The Black Maternity Experience Report” (2022): <https://static1.squarespace.com/static/5ee11f70fe99d54ddeb9ed4a/t/628a8756365828292ccb7712/1653245787911/The+Black+Maternity+Experience+Report.pdf>

¹⁸ pg. 20, *ibid.*

¹⁹ pg. 20/21, *ibid.*

- (f) microaggressions, for example, by way of perpetuating racial or ethnic stereotypes.²⁰

Lack of action by the UK Government

The UK is falling short of achieving its targets which were meant to address these causes and disparities in outcomes. In 2019, NHS England's Long Term Plan set out a number of goals, including a target of ensuring that 75% of women from BAME backgrounds would receive continuity of care by 2024.²¹ According to research by the Nuffield Trust, the current share of women who can see the same midwife throughout their pregnancy is significantly lower than the target. The Nuffield Trust found that only 22% of Black, Asian and other ethnic minority women see the same midwife.²² Although, continuity of care is only one part of delivering maternity care, it was one of the targets set to address the disparities in maternal health care.²³

Additionally, the target to ensure greater user participation in the design and delivery of maternity care through an initiative called "Maternity Voice Partnerships" by way of providing additional support for BAME parent representatives has not succeeded to date. Evidence received from local maternity groups suggests that the partnerships frequently fail to include members from communities that require support most urgently, such as deprived and BAME groups.²⁴

The Maternity Disparities Taskforce referred to in 0 met twice in 2023, despite its terms of reference prescribing a meeting every two months.²⁵ Its minutes are unavailable and there are no published impact metrics of success or objectives. Finally, no reports regarding the Maternity Disparities Taskforce have been made available to the public.

Further, there is inconsistent data collection which is leading to worse outcomes for Black women. For example, in a review conducted by MBRRACE, frequent inaccurate and inconsistent recording of citizenship and ethnicity within the maternity records was identified, which may have impacted the ability to undertake assessment of needs and personalised care planning. For 50% of the Black women and 11% White women in MBRRACE's review sample, citizenship status was not recorded.²⁶

²⁰ para.13, House of Commons, Third Report of Session 2022-23: "Black maternal health" (2023): <https://publications.parliament.uk/pa/cm5803/cmselect/cmwomeq/94/report.html#footnote-178>

²¹ para. 25, *ibid.*

²² E Dodsworth, "Inequalities in midwifery continuity of care during pregnancy" (2023): <https://www.nuffieldtrust.org.uk/news-item/inequalities-in-midwifery-continuity-of-care-during-pregnancy#:~:text=The%20NHS%20Long%20Term%20Plan,been%20close%20to%20the%20target>

²³ para. 114, Health and Social Care Committee "The safety of maternity service in England" (2020): <https://publications.parliament.uk/pa/cm5802/cmselect/cmhealth/19/1907.htm#footnote-089>

²⁴ Manchester University NHS Foundation Trust, "Saint Mary's Hospital (MFT) response to Health and Social Care Committee - Safety of Maternity Services in England inquiry (MSE0004)" (2020): <https://committees.parliament.uk/writtenevidence/9921/html/>

²⁵ Z. Crowther, "Government Maternity Disparities Taskforce Only Met Twice Last Year" (2022): <https://www.politicshome.com/news/article/government-maternity-disparities-taskforce-met-twice-last-year>

²⁶ MBRRACE-UK, Perinatal Confidential Enquiry, "A comparison of the care of Black and White women who have experienced a stillbirth or neonatal death", <https://timms.le.ac.uk/mbrrace-uk-perinatal-mortality/confidential-enquiries/confidential-enquiry-black.html#recommendations> .

The Equality 4 Black Nurses, an organisation that advocates for justice and equity within the healthcare system has supported several Black midwives facing discrimination. In an interview with midwives who experienced racism while working in the NHS, they described witnessing firsthand the racist mistreatment of labouring women from BAME backgrounds.

Case Study 1

One midwife highlighted the disregard for cultural differences and how certain patients from Black communities typically seek advice from trusted family members or reputable community figures before consulting their healthcare professionals. By the time these women access health support, their condition is often serious and requires immediate attention. However, due to poor triaging, their needs are overlooked. Black women are frequently subjected to the stereotype of having higher pain tolerance, resulting in a lack of personalised care and consequently poor treatment outcomes.

Case Study 2

Another midwife of Afro-Caribbean descent described her experience of burnout while working for the NHS. She recounted being consistently instructed to tend to patients of BAME backgrounds and, on some occasions, being asked to “control [her] women”. As a minority among her predominantly Caucasian colleagues, she was often responsible for 10-15 racially minoritised patients at a time. She observed a reluctance among her Caucasian counterparts to attend to labouring Black women complaining of pain, often neglecting them for extended periods. Midwives from racially minoritised backgrounds reported feeling overworked, yet they remained dedicated to caring for labouring women they could emphasise with, given their own experiences of racism. To quote one particular midwife accessing Equality 4 Black Nurses support, *“I would like to just say that racism begins in the womb. Black and brown babies are experiencing racism in the womb through the lack of care and abuse of their mothers,”* emphasising the systemic and generational racism suffered by women of BAME backgrounds.

Recommendation

- Publish the strategy and objective outcomes and timelines by the Maternity Disparities Taskforce.

Government to set more ambitious targets to reduce the 3.7 current levels to 0 by the end of the current administration.

Racial health inequalities

Disparities exist for both medical professionals and for patients and users of the National Health Service. The British Medical Association (BMA) has expressed concern that the NHS has

refused to acknowledge structural racism as a reason for disparities that geographical, and socio economic reasons alone cannot explain the existence of health inequalities²⁷

The disparities were laid bare during the Covid 19 pandemic. Dr Omar Jundi Intensive Care Consultant observed the inaccuracies of pulse oximeter readings during the Covid 19 pandemic. He said *“It’s an aspect of the sort if systemic biases and systemic racism that occur in the NHS and the care that we provide in the NHS everyday.”*²⁸

Mental health services do not meet the needs of Black LGBTQI+ 41% of queer, 44% of non binary and 48% of trans and 39% of disabled respondents to the UK Black Provide We will be heard survey said they did not feel that mental health services understood their specific needs.²⁹

Black people are 4x more likely to be detained under the Mental Health Act 1980³⁰. Once detained they are more likely than their white counterparts to be held in solitary confinement, be over medicated, experience excess force.

Recommendations

- Acknowledge that institutional racism is a factor in health inequalities within the NHS.
- Review the procurement and supply chain processes for medical equipment to ensure it operates correctly irrespective of skin tone of a patient.
- Train culturally competent mental health clinicians.
- Provide more adequately resourced community based mental health provision.

Inequality in availability, accessibility, and quality of education for Black children

The link between academic performance and adequate nutrition has been established repeatedly.³¹

In UK, free school meals (“**FSM**”) must be provided to all children in Reception, Year 1 and Year 2 who attend government-funded schools and who are not otherwise entitled to

²⁷ <https://www.bma.org.uk/advice-and-support/equality-and-diversity-guidance/race-equality-in-medicine/race-inequalities-and-ethnic-disparities-in-healthcare>

²⁸ <https://www.bbc.co.uk/news/health-58032842>

²⁹ https://static1.squarespace.com/static/5c7687174d87112ad57fc819/t/6194f30dcea6433f35a14f77/1637151508280/WWBH_FINAL_2021_v2-compressed.pdf

³⁰ <https://www.ethnicity-facts-figures.service.gov.uk/health/mental-health/detentions-under-the-mental-health-act/latest/#by-ethnicity-5-ethnic-groups>

³¹ Belachew et al, 'Food insecurity, school absenteeism and educational attainment of adolescents in Jimma Zone Southwest Ethiopia: a longitudinal study' (2011) 10 Nutrition Journal 29; Sandstead, 'Causes of iron and zinc deficiencies and their effects on the brain' (2000) 130 Journal of Nutrition 347
Sorhaindo and Feinstein, 'What is the relationship between child nutrition and school outcomes?' [2006] Centre for Research on the Wider Benefits of Learning

benefits-related FSM.³² For older children who are aged between 5 and 16 years old their entitlement is based on benefits-related entitlement.

The key issue with the policy framework in the UK in relation to FSM seems to be the eligibility criteria. According to the Department of Education report “Schools, pupils and their characteristics” published in June 2023³³, the percentage of pupils eligible for free school meals as of January 2023 was 23.8 per cent, which reflects the restrictive criteria imposed by the UK government on accessing FSM. Eligibility for FSM applies to those pupils in receipt of, or whose parents are in receipt of specific benefits:

The eligibility criteria is restrictive to the extent that children from lower socio-economic backgrounds are unable to access FSM:

- (g) 7 in 10 school children on Universal Credit are ineligible for FSMs, as their family’s post-tax earnings are more than £7,400 per year.³⁴
- (h) 1/3 of children in poverty miss out on FSMs.³⁵

The restrictive eligibility criteria of FSM is likely to disproportionately impact Black children, with FSM eligibility ranging from 44.7% to 30.6%³⁶ and Black children being the most likely to come from households that have persistently low income.³⁷

Current figures show that nationally, 1 in 10 children who are entitled to FSMs are not receiving them because their parent or guardian has not applied to their local council or school.³⁸ Under the automatic enrolment scheme that has been piloted in various areas nationally, councils have the responsibility of signing up eligible pupils in order to ensure that they are fed.

As well as providing pupils with the meals to which they are entitled, schools are eligible for higher amounts of Pupil Premium funding with each child that is registered. In this instance, both pupils and schools are benefitting from automatic enrolment.

The Local Government Association (“**LGA**”), which represents the vast majority of councils across England and Wales, supports the introduction of automatic enrolment in FSM programmes. In research carried out by the LGA and the Child Poverty Action Group (“**CPAG**”)

³² Children and Families Act 2014

³³ Department for Education Academic Year 2022/23 Schools, pupils and their characteristics: Published 8 June 2023: <https://explore-education-statistics.service.gov.uk/find-statistics/school-pupils-and-their-characteristics>

³⁴ Cribb et al, 'The policy menu for school lunches: options and trade-offs in expanding free school meals in England' [2013] Institute for Fiscal Studies <https://ifs.org.uk/publications/policy-menu-school-lunches-options-and-trade-offs-expanding-free-school-meals-england> (accessed 26 January 2024)

³⁵ <https://cpag.org.uk/news/free-school-meals-third-kids-poverty-miss-out>

³⁶ UK Government Statistics, “Ethnicity Facts and Figures: Persistent Low Income” (2023): [https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/pay-and-income/low-income/latest/#:~:text=among%20children%2C%20those%20in%20black,white%20British%20households%20\(17%25\)](https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/pay-and-income/low-income/latest/#:~:text=among%20children%2C%20those%20in%20black,white%20British%20households%20(17%25))

³⁷ UK Government Statistics, “FSM eligibility by ethnicity” (2023-2024): <https://explore-education-statistics.service.gov.uk/data-tables/fast-track/910c9217-167a-4e83-3e1b-08dc65d12a8f>

³⁸ [FixOurFood in Schools Initiatives](#)

in 2022, it was found that an additional 215,000 children across England could be provided with meals should this be made mandatory.³⁹

In London borough of Lambeth, the council worked with the FixOurFood, an organisation that ~~works~~ uses an auto-enrolment system to identify eligible pupils for FSM. The findings from this pilot are very stark in terms of who has benefitted. Of an additional 340 primary and secondary school pupils who were identified and enrolled, 79% were from BAME communities, 50% did not speak English as a first language and 89% were from lone parent households.⁴⁰

Figures from the Council state that auto-enrolment has generated household savings of up to £462,000 per year and secured £821,000 of additional income per year for schools educating children from the borough's lowest income households.⁴¹

Recommendations

- Introduce auto enrolment for FSM for all school age pupils with an opt-out provision.

School sanctions and exclusions leading to barriers to academic achievement in education

Schools are increasingly following zero tolerance behaviour policies. These policies are not culturally sensitive or take note of neuro diverse pupils and those who have SEND. The use of a one size fits all approach to disciplinene negatively impacts on SEND pupils. They can lead to disproportionate imposition of sanctions. The largest teaching union National Education Union (NEU) has said that the use of zero tolerance behaviour policies has an impact on the mental health of pupils and have called them inhumane.⁴²

49% of Black students report that being disproportionately subject to draconian measures prevented them from fulfilling their academic potential.⁴³ Frequently a response to racist language in a school environment can start altercations that result in punishment. 95% of Black ~~Black~~ students have heard racist language at school.

Black and Black mixed students are more likely to be permanently excluded from school than white students. Black Caribbean boys are around six times more likely to be excluded than their white peers in some boroughs and three times more likely to be excluded than their peers on average. The issue impacts Black girls as well, ~~who are nearly~~ who are now nearly twice as likely to be excluded from school as their white peers. Additionally black students are disproportionately represented in pupil referral units. For example in Sheffield 52% of students in a PRU were from BAME backgrounds, despite 86% of the Sheffield population being white British.

Recommendations

³⁹ [Local Government Association - Free school meals: One million more school children could be fed if the sign-up process eased, councils urge](#)

⁴⁰ *Ibid*

⁴¹ [Lambeth – Hundreds more families to get Free School Meals](#)

⁴² <https://www.theguardian.com/education/2019/apr/17/teaching-union-calls-zero-tolerance-school-policies-inhumane>

⁴³ <https://www.ymca.org.uk/research/young-and-black>

- Make the use of zero tolerance behaviour policies unlawful.
- Provide access to legal advice and representation to challenge permanent exclusions.
- Removal of police from schools.
- Commit to revising the National Curriculum so that it adequately reflects the contribution of Black lives to literature, science, maths, social sciences and the arts.

Representation in the judiciary and effective access to justice

Inequalities arising in the UK justice system are two-fold: there is persistent, inadequate representation in the judiciary and a continuous failure to ensure effective access to justice.

Between 2014 and 2023, the representation of Black judges in courts and tribunals combined remained at 1%.⁴⁴ The higher the court, the lower the representation: only 6% of High Court judges and above are from ethnic minorities, including only one Court of Appeal judge identifying as being from an ethnic minority.⁴⁵ Additionally, as at 1 April 2023, Black individuals only constituted 4% of the magistrates across the UK.⁴⁶

The lack of representation does not arise due to the lack of eligible candidates, but rather due to the disparities in the appointment process. In the period of 1 April 2020 to 31 March 2023, the likelihood of success from an eligible pool to recommendations for the appointment of the judiciary was 58% lower for black candidates than it was for white candidates. The odds of being recommended decrease by another 18% for ethnic minority females.⁴⁷

We are not aware of any study establishing the causal link between representation in the judiciary and judicial outcomes in the UK. However, a large scale survey of 373 lawyers and judges commissioned by the University of Manchester found that 95 per cent of all respondents believe racial bias plays some role in the processes and/or outcomes of the justice system.⁴⁸ 63% of respondents selected four or five out of five, which suggests they believe it plays a very significant role, with 29% saying racial bias plays a 'fundamental role'.⁴⁹ Additionally, 56% of the survey respondents stated that they had witnessed one or more

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ministry of Justice, "Official Statistics Diversity of the judiciary: Legal professions, new appointments and current post-holders 2023 Statistics" (2023): [Ministry of Justice, Official Statistics Diversity of the judiciary: Legal professions, new appointments and current post-holders 2023 Statistics](https://www.gov.uk/government/statistics/ministry-of-justice-official-statistics-diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2023-statistics)

⁴⁸ pg.12, Keir Monteith KC et al., "Racial Bias and the Bench" (2022): <https://documents.manchester.ac.uk/display.aspx?DocID=64125>

⁴⁹ Ibid.

judges acting in a racially biased way towards a defendant.⁵⁰ There is also indicative evidence that a fundamental source of mistrust in the CJS among BAME communities is due to the lack of diversity among those who wield power within it.⁵¹

These findings are reflected in the judicial outcomes for Black people in the UK. Black defendants had a charge rate of 76.2%, which was seven percentage points higher than the rate of white British defendants. Defendants from mixed ethnic backgrounds are also more likely to be charged, with 79.1% of the suspects charged, almost 10 percentage points higher than the rate of white British defendants charged.⁵²

A ERSC-funded study found that remand for defendants in Black groups was between 15% and 18% higher than the White British group. Additionally, defendants from Black groups were between 9% and 19% more likely to receive a custodial sentence, and 22% more likely for White and Black African defendants than white British defendants after adjusting for other characteristics.⁵³

The same disparities apply to children. A study conducted by the Youth Justice Board found that, after controlling for demographics and offence-related factor, children of Mixed ethnicity and Black children remained more likely to receive custodial remands (5 and 7 percentage points, respectively).⁵⁴ Black children were also more likely to receive harsher sentences even when differences in demographics and offence-related factors were controlled for.⁵⁵

The disparity in treatment must be seen alongside the lack of Black decision makers across the criminal and civil benches. This results in a lack of acknowledgment of the institutional racism within the legal system and a failure therefore to acknowledge that racial bias and anti racist training is imperative.

Recommendations

- Implement all the recommendations of the Racial Bias in the Bench Report.⁵⁶
- Implement all the Lammy review recommendations.⁵⁷

⁵⁰ pg. 7, *ibid*.

⁵¹ Chen, E.M., *California Law Review*, "The judiciary, diversity and justice for all" (2003): <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1367&context=californialawreview> cited in the Lammy Review, pg. 37

⁵² The Crown Prosecution Service, "CPS charging decisions - examining demographic disparities in the outcomes of our decision making" (2023): <https://www.cps.gov.uk/publication/cps-charging-decisions-examining-demographic-disparities-outcomes-our-decision-making>

⁵³ pg. 4, Lympelopoulou, KD: "Ethnic Inequalities in the Criminal Justice System" (2023): <https://www.actionforraceequality.org.uk/wp-content/uploads/2023/01/Ethnic-Inequalities-in-the-Criminal-Justice-System-January-2023-FINAL.pdf>

⁵⁴ para. 14, Youth Justice Board, "Ethnic disproportionality in remand and sentencing in the youth justice system" (2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952483/Ethnic_disproportionality_in_remand_and_sentencing_in_the_youth_justice_system.pdf .

⁵⁵ *ibid*.

⁵⁶ Racial Bias and the Bench Report pg7 <https://www.intermediaries-for-justice.org/sites/default/files/unimanchesterracejudiciaryreport.pdf>

⁵⁷ <https://www.gov.uk/government/publications/lammy-review-final-report>

Access to justice

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into effect on 1 April 2013, leading to a significant decrease in funding of civil legal aid cases and the volume of such cases. The figures published by the government for the period of 2012-2013 to 2017-2018 represent a spending decrease of 41%.⁵⁸

Although the UK government does not collate statistics of the volume of cases by ethnicity, it does publish data on the ethnicity of clients: around 11% of the Legal Aid clients in 2022-2023 were either Black or of Mixed ethnicity.⁵⁹

The areas that experience the greatest lack in capacity are likely to affect the Black clients more and are related to human rights issues such as the right to respect for private and family life, the right not to be subject to degrading treatment and the right to be represented in seeking legal review of their removal from the United Kingdom.

Research published by LawWorks in collaboration with Hogan Lovells, found that the most common issues that people sought help on at MPs' surgeries were housing issues (46%) followed by immigration issues (16%).⁶⁰ Those were the two legal areas that caseworkers considered organisations providing legal advice in their constituencies were particularly lacking in capacity: 62% stated that the legal advice providers lacked capacity to deal with constituents' asylum and immigration issues and 57% stated a lack of capacity in relation to housing issues.⁶¹

This lack of capacity is likely impacting Black clients disproportionately. Over 44% of the Legal Aid clients seeking advice on immigration issues⁶² were Black and 18% of the Legal Aid clients seeking housing-related advice⁶³ were Black in 2022-2023.

These figures may be understating the impact on the Black clients of Legal Aid cuts since research shows that substantial parts of the population simply do not have access to Legal Aid services. The Law Society's legal aid deserts maps show that across England and Wales,

⁵⁸ para. 149 and Figure 5, Ministry of Justice, "Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)" (2019):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777038/post-implementation-review-of-part-1-of-laspo.pdf. As cited in p.10, "Mind the gap: The unmet need for legal advice in England and Wales" (2023): <https://www.lawworks.org.uk/sites/default/files/files/mind-the-gap-2023-singles.pdf>

⁵⁹ Office for National Statistics, "Client Ethnicity Dashboard" (2022-23): <https://app.powerbi.com/view?r=eyJrjoiODk4YTMwMWYtMDE3YS00ZWl2LWJkMjgtYjc5Y2NmMTEyMWYzliwidCI6ImM2ODc0NzI4LTcxZTYtNDFmZS1hOWUxLTJlOGMzNjc3NmFkOCIsImMiOiJh9> The percentage excludes those clients whose ethnicity is unknown or suppressed

⁶⁰ p.21, LawWorks, "Mind the gap: The unmet need for legal advice in England and Wales" (2023): <https://www.lawworks.org.uk/sites/default/files/files/mind-the-gap-2023-singles.pdf>

⁶¹ p.26, *ibid.*

⁶² Office for National Statistics, "Client Ethnicity Dashboard" (2022-23): <https://app.powerbi.com/view?r=eyJrjoiODk4YTMwMWYtMDE3YS00ZWl2LWJkMjgtYjc5Y2NmMTEyMWYzliwidCI6ImM2ODc0NzI4LTcxZTYtNDFmZS1hOWUxLTJlOGMzNjc3NmFkOCIsImMiOiJh9> The percentage excludes those clients whose ethnicity is unknown or suppressed.

⁶³ *ibid.* This includes both the housing and housing possession court duty scheme. The percentage excludes those clients whose ethnicity is unknown or suppressed.

22% have access to a local education provider and 33% have access to a local community care legal aid provider and 39% do not have access to a local legal aid provider for housing advice.⁶⁴

There is little point of having rights if there is an inability to exercise them because of lack of funding or access to a qualified competent legal adviser.

Recommendations

- Reverse LAPS0 entitlement to ensure access to legal advice and assistance for those without sufficient means where litigation is contemplated.
- Restore initial legal advice for private family law cases, welfare benefits and for funding for all immigration cases raising arguable human rights issues.
- Enable legal aid for school exclusions and SEND appeals.
- Increase civil and criminal legal aid rates to ensure that there are practitioners to deliver legal advice and representation.

Public harms of Black women in the areas of policing mental health services and education

BEO carried out joint research with the Fawcett Society that looked at the intersection of racism and sexism. Black women are subject to this double discrimination, known as misogynoir. The report found four key themes across policing, education and mental health services: (i) Excessive force and detention (ii) Adultification and the 'strong Black woman' trope (iii) Erasure and invisibility of Black women's experiences (iv) A 'one-size-fits-all' approach to public services.

Misogynoir causes unmeasurable harm for Black women and their interactions with public services that they need to engage with.

Recommendations

- Public services to acknowledge the existence of misogynoir.
- Comprehensive collation of disaggregated data of service users.
- Access to support services to deal with the trauma of misogynoir.
- Anti racist and sexist training for staff to ensure that tropes do not form part of service provision.

Stop and search and Exposure Intimate Parts search (EIP)

⁶⁴ Law Society, *Civil legal aid increasingly out of reach for those in need*; <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/civil-legal-aid-increasingly-out-of-reach-for-those-in-need>

Stop and search – [GOV.UK](https://www.gov.uk) In the year ending August 23, there were 5.6 stop and searches for every 1,000 white people, compared with 27.2 for every 1,000 Black people

[GOV.UK](https://www.gov.uk) In the Metropolitan police force area, use of force tactics involved people from a Black ethnic group at a rate 3.5 times higher than those from a white ethnic group. Use of force tactics involved people from a Black ethnic group at a rate 3.3 times higher than those from a white ethnic group in police force areas in England and Wales excluding the Metropolitan Police.

The [Baroness Casey Review](#) (March 2023) found institutional racism in the Metropolitan Police. Recommendations were set out, one of the key measures being reductions in racial disparity in misconduct cases.

Failure to cooperate in a stop and search is likely to occur for a child or vulnerable person especially if they are likely to feel humiliated or embarrassed and intimidated by the thought of being subjected to an EIP search. The use of force because of a failure to cooperate is likely to exacerbate any trauma arising from the EIP search itself.

Recommendations -

- That use of force is removed from stop and search and EIP searches of children and vulnerable persons.
- Support services to be in place when a safeguarding referral is made for a stop and search or EIP search.

Data from The Children’s Commissioner Report Strip search of Children in England and Wales - an analysis by the Children’s Commissioner detailed that of all stop and searches of children in 2021-22 only 9% of stops led to an arrest.

The % arrest rate calls into question the use of stop and search as an effective tool for policing. Excessive stop and search where no criminality is found creates trauma and a distrust in policing and of the police.

‘Someone walked into the school, where I was supposed to feel safe, took me away from the people who were supposed to protect me and stripped me naked, while on my period [...] Things need to change with all organisations involved. Even I can see that’ – Child Q, aged 15. (from Children’s Commissioner report pg. 9)

<https://assets.childrenscommissioner.gov.uk/wpuploads/2023/03/cc-strip-search-of-children-in-england-and-wales.pdf>

Recommendations

- Ending stop and search and EIP of children.
- Public confirmation that police services are institutionally racist.
- Review of the Metropolitan Police Service.
- Implement all of Casey Review recommendations by March 2025 review.

Criminal Justice

The UK Prison Population Statistics report 2023 shows that whilst Black people make up 4% of the general population, they are over represented in prisons, making up 12% of the prisoner population.

Black defendants continued to serve a greater proportion of their original determinate sentence in custody (68% in 2022) when compared with white (59%)⁶⁵

CPS Pilot data shows that 30% of Joint Enterprise defendants in the CPS caseload monitored were Black despite Black people making up 4% of the general population. In London, 54% of defendants are Black, 19% were white.⁶⁶

*The CPS commenced a pilot to monitor Joint Enterprise homicide/attempted homicide cases in February 2023, this was piloted in six regions. Data was published after threat of legal action by JENGBA and Liberty campaign.

The Police Race Action Plan developed by the National Police Chiefs' Council (NPCC) and the College of Policing has stated they will develop an ethical approach governing the use of digital forensics, eliminating the influence of unconscious bias, assumptions or discriminatory practice (to include the use of A.I) as part of their objectives to ensure improve policing for Black people, under their strand of Black people not being overpoliced.⁶⁷

Adultification in the criminal justice system

Black children are routinely identified as adults in their interactions with the police and are dealt ~~with~~ without due regard to their safeguarding rights. Davis and March (2020) define adultification as *'The concept of adultification is when notions of innocence and vulnerability are not afforded to certain children. This is determined by people and institutions who have power over them. When adultification occurs outside of the home it is always founded within discrimination and bias'* Report Adultification Bias Within Child Protection and Safeguarding.⁶⁸

The adultification of Black children is a demonstration of racism at play. In terms of stop and search and interactions with the police children are deemed to be older than they look, more mature, more streetwise or resilient. As a result adultification leads to a lack of safeguarding and the preservation of their rights.

Recommendations

- Police to assume that a young person is under 18 and treat them as a child, unless there is evidence to the contrary that they are over the age of 18.

⁶⁵ <https://researchbriefings.files.parliament.uk/documents/SN04334/SN04334.pdf>

⁶⁶ <https://www.cps.gov.uk/publication/crown-prosecution-service-joint-enterprise-pilot-2023-data-analysis>

⁶⁷ <https://assets.college.police.uk/s3fs-public/Police-Race-Action-Plan.pdf>

⁶⁸ <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf> page 5

- For a child’s best interest to be at the centre of the police interactions with young people.

Socio economic issues

While 68% of white British households own their homes, home ownership rates for Black community were: 40% for black Caribbean and 20% for black African households.⁶⁹

Black African (44%), Mixed White and Black African (41%) and Black Caribbean (40%) households were most likely to rent social housing out of all ethnic groups.⁷⁰

Out of all ethnic groups, the highest rates of overcrowding were in Bangladeshi (22.5%), Arab (17.1%) and Black African (16.3%) households, the lowest rate of overcrowding was in white British households (1.7%).⁷¹

Out of all ethnic groups, Mixed White and Black African were most likely to live in “non-decent homes” at 33% compared to white households at 18%. Non-decent is defined as not meeting basic legal health and safety standards for housing, not in a reasonable state of repair, not having reasonably modern facilities and services and not having insulation or heating that is effective.⁷²

Black people are three and a half times as likely to experience statutory homelessness as white British people.⁷³

Recommendations

- Introduce legislation to implement a race pay gap with a statutory time line framework for closing the gap.
- Increase rent cap for private rented accommodation.
- Increase the number of units in social housing stock across the United Kingdom.

Conclusion

Aside from adopting the recommendations above the United Kingdom must engage and work with Black led organisations like BEO and commit to eliminating structural and systemic racism.

⁶⁹ <https://www.ethnicity-facts-figures.service.gov.uk/housing/owning-and-renting/home-ownership/latest/>

⁷⁰ <https://www.ethnicity-facts-figures.service.gov.uk/housing/social-housing/renting-from-a-local-authority-or-housing-association-social-housing/3.1/#by-ethnicity>

⁷¹ <https://www.ethnicity-facts-figures.service.gov.uk/housing/social-housing/renting-from-a-local-authority-or-housing-association-social-housing/3.1/#by-ethnicity>

⁷² <https://www.ethnicity-facts-figures.service.gov.uk/housing/housing-conditions/non-decent-homes/latest/#things-you-need-to-know>

⁷³ <https://www.ethnicity-facts-figures.service.gov.uk/housing/housing-conditions/non-decent-homes/latest/#things-you-need-to-know>