

# MLegal Submission to the UN Committee on the Elimination of Racial Discrimination

*Follow-up to the Concluding Observations on the United Kingdom (CERD/C/GBR/CO/24-26)*

## Introduction

MLegal is a UK-based non-profit organisation committed to defending and advancing the rights of marginalised communities through strategic policy work, legal analysis and advocacy. We work on human rights and equality law, with a particular focus on the ways in which social policy, counter-terrorism, public order, protest policing and hate crime frameworks affect Muslim and racialised communities in the United Kingdom. Our work spans equality legislation reform, advocacy for governmental recognition and adoption of a definition of Islamophobia, counter-terrorism policy, racial profiling, and the protection of the right to protest. This submission draws directly on that body of work.

The Committee's concluding observations (CERD/C/GBR/CO/24-26, August 2024)<sup>1</sup> document a pattern of structural non-compliance: dormant equality law, inadequate recognition of anti-Muslim discrimination, the absence of any legal prohibition on racial profiling, and a counter-terrorism framework that continues to operate with discriminatory effect.

The UK Government's follow-up response<sup>2</sup> does not demonstrate meaningful progress in any of these areas. It relies on existing frameworks, describes them as adequate, and offers no legislative change, timetable, or evidence base sufficient to show compliance with the Committee's recommendations.

*MLegal's submission addresses four areas where the UK's response falls short of compliance: (i) the failure to reform equality legislation in ways the Committee recommended; (ii) the inadequacy of the Government's approach to anti-Muslim discrimination and hate speech; (iii) the absence of any legislative prohibition on racial profiling; and (iv) the structural failures that allow Prevent to continue functioning in a discriminatory manner. These areas share the same underlying problem: a State that describes existing frameworks as adequate without providing the legislative change or evidence necessary to demonstrate it.*

<sup>1</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FCO%2F24-26&Lang=en).

<sup>2</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

## I. Failure to Reform Equality Legislation

### A. The Committee's Recommendations

In paragraph 14 of its concluding observations<sup>3</sup>, the Committee recommended that the UK bring into legal effect provisions of the Equality Act 2010<sup>4</sup> that remain dormant: section 9(5)(a) on caste-based discrimination; section 14 on combined discrimination; and Part 1 on the public sector duty regarding socioeconomic inequalities. It also called for comprehensive anti-discrimination legislation containing a clear definition of racial discrimination in all its forms, including direct, indirect, structural, multiple and intersecting forms (para. 14(a)), and for equality impact assessments to be made compulsory and publicly available across all jurisdictions, including in immigration and law enforcement contexts (para. 14(d)).

### B. The UK's Response

The UK's response is silent on sections 9(5)(a) and 14. It refers to a planned Equality (Race and Disability) Bill and ongoing engagement with civil society, but offers no specific commitment to the provisions the Committee identified, nor any timetable for enacting them. On the socioeconomic duty, the position has not changed: it remains in force in Scotland and Wales, but not in England, where the majority of Muslim<sup>5</sup> and other racialised communities affected by these recommendations are concentrated. The Equality and Human Rights Commission, in its own assessment of the UK's compliance with CERD recommendations<sup>6</sup>, has confirmed that several of the Committee's recommendations on equality legislation remain unimplemented.

### C. MLegal's Analysis

The failure to enact these provisions has concrete and demonstrable consequences for the legal protection available to Muslim communities and other racialised groups.

#### The Racialisation Gap in Section 9

Under current domestic law, Muslims are protected against discrimination primarily as a religious group. Jews and Sikhs, by contrast, have long been recognised as ethnic/racial groups under case law -

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<sup>3</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

<sup>4</sup> Equality Act 2010 (2010). *Equality Act 2010*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents>.

<sup>5</sup> Muslim Council of Britain (2026). *British Muslims In Numbers: A Statistical Compendium – Volume 1 | Muslim Council of Britain*. [online] Muslim Council of Britain. Available at: <https://mcb.org.uk/resources/british-muslims-in-numbers-a-statistical-compendium-volume-1/>.

<sup>6</sup> Equality and Human Rights Commission (2025b). *Policing: UK government action | EHRC*. [online] Equalityhumanrights.com. Available at: <https://www.equalityhumanrights.com/human-rights/human-rights-tracker/policing-uk-government-action>; Equality and Human Rights Commission (2025a). *More government action needed to tackle racial discrimination despite some steps to meet international obligations, says human rights regulator | EHRC*. [online] Equalityhumanrights.com. Available at: <https://www.equalityhumanrights.com/media-centre/news/more-government-action-needed-tackle-racial-discrimination-despite-some-steps>.

*Mandla v Dowell Lee* [1983] and *R (E) v Governing Body of JFS* [2009] - and receive protection as such under the Equality Act 2010 and the Public Order Act 1986. This means that bigotry and discrimination against Jews and Sikhs may be pursued on grounds of race, including through the provisions on racial harassment in the provision of services, education, the management or disposal of premises, and private associations, as well as through the provisions on stirring up racial hatred under the Public Order Act 1986.

Islamophobia is in practice experienced through the same racialised markers as antisemitism: names, dress, appearance, language, perceived foreignness, cultural expression and expressions of Muslimness or perceived Muslimness. The bigotry operates in the same three domains: othering, discrimination, and hostility - as other forms of racialised religious discrimination recognised in UK law. The diversity of Muslim backgrounds does not preclude this recognition: section 9(4) of the Equality Act 2010 expressly provides that a racial group may comprise two or more distinct racial groups, directly addressing the argument historically used to exclude Muslims from ethnic group status.

The consequence is a hierarchy of protection that has no principled basis. Antisemitic hate crimes can be logged and prosecuted as both racial and religious hate crimes, and, in relation to stirring up hatred offences under the Public Order Act 1986, as amended by the Racial and Religious Hatred Act 2006<sup>7</sup>, the lower threshold applicable to stirring up racial hatred is available to prosecutors. The same is true for anti-Sikh hostility. Islamophobia, by contrast, is not confined to religiously aggravated offending: CSEW analysis found that Muslim adults were more likely to be victims of racially motivated hate crime than Christian adults or adults reporting no religion<sup>8</sup>. However, where hatred is stirred up against Muslims as a religious group, the narrower provisions on stirring up religious hatred apply. This means a higher prosecution threshold in relation to stirring up hatred offences, reduced civil law protections in the delivery of services, management and disposal of premises and treatment of private members clubs, and weaker access to positive action measures on grounds of race. Where pay equality provisions are to be extended to race through the Equality (Race and Disability) Bill, Muslims risk exclusion despite facing some of the most severe pay disparities of any group in England.

A clear statutory clarification is therefore required to recognise “racialised religious groups” within section 9 of the Equality Act 2010, accompanied by guidance confirming that Jews, Sikhs, and Muslims fall within that category. This would codify in legislation and further clarify in guidance the approach already reflected in case law on ethno-religious groups and intended by S9(4) EA 2010, ensure consistent treatment across protected groups, and replace reliance on outdated legal tests with a framework focused on how communities are racialised in practice. It would align the law with contemporary patterns of discrimination, where individuals are targeted not for theological belief or the diversity of origins but for perceived identity as a homogenous group, identified by various social markers.

## **Section 14 and Combined Discrimination**

Section 14, had it been brought into force, would allow claims based on a combination of two protected characteristics - for example, race and religion, or sex and religion. It is precisely the provision needed to capture the lived experience of Islamophobia as a form of racialised or gendered

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<sup>7</sup> Racial and Religious Hatred Act 2006 (2006). [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2006/1/contents>.

<sup>8</sup> Home Office (2020). *Hate crime, England and Wales, 2019 to 2020*. [online] GOV.UK. Available at: <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2019-to-2020/hate-crime-england-and-wales-2019-to-2020>.

religious discrimination. A Muslim woman who is treated adversely because of the combination of her religion and her gender, or a Black Muslim man whose treatment is shaped by the intersection of his race and faith, cannot currently bring a combined discrimination claim. They must instead fragment their experience into single strands - losing the legal description that most accurately reflects what happened to them. Section 14 would provide the correct legal framework; its continued dormancy leaves a significant gap in protection for the communities most affected.

## **The Socioeconomic Duty in England**

The failure to extend the socioeconomic duty to England has particular consequences for Muslim communities, who are mostly settled in England and face some of the most severe socioeconomic disadvantages of any group in England. The Equality and Human Rights Commission's evaluations of the duty in Scotland and Wales demonstrate its potential to shape more equitable outcomes for disadvantaged communities<sup>9</sup>. Its absence in England means that public bodies are not legally required to consider the compounding effects of poverty on racialised and Muslim communities when making strategic decisions about housing, health, education and criminal justice. The 1forEquality campaign<sup>10</sup> which has consolidated expert and community perspectives, has called for commencement of the duty in England with strong safeguards against tick-box compliance.

## **Equality Impact Assessments**

The Committee called for equality impact assessments to be made compulsory and publicly available across all jurisdictions, expressly naming the areas of immigration and law enforcement (para. 14(d))<sup>11</sup>. The UK has not committed to this. The absence of mandatory publication has direct consequences across multiple frameworks. The hostile environment policy and the Windrush scandal were carried out without any adequate published equality assessment of their discriminatory impact on Black British citizens with the right to remain: a policy whose effects were documented after the harm had been done, not before. The same argument apply to Prevent as the Governments equality impact assessment is not published in a form that allows for independent scrutiny of the disaggregated data. An equality assessment based on aggregated, withheld or inconsistently collected data cannot reasonably demonstrate that the discriminatory impact identified by the Committee has been addressed.

## **Section 26: The Harassment Protection Gap**

A related and currently unaddressed gap concerns the protection against harassment on grounds of religion or belief. Section 26 of the Equality Act 2010 defines harassment broadly and applies it to all protected characteristics in employment and vocational training. However, the Act expressly excludes protection from harassment on grounds of religion or belief in the provision of services and public functions (s.29(8)), the disposal and management of premises (ss.33(6), 34(4), 35(4)), the admission

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<sup>9</sup> EHRC (2025). *The socio-economic duty in Wales and Scotland: research report (2025)* | EHRC. [online] Equalityhumanrights.com. Available at: <https://www.equalityhumanrights.com/socio-economic-duty-wales-and-scotland-research-report-2025>.

<sup>10</sup> Just Fair (2017). *1ForEquality*. [online] Just Fair. Available at: <https://justfair.org.uk/campaigns-2/1forequality/>.

<sup>11</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

and treatment of pupils in schools (s.85(10)), and the treatment of members, associates and guests in private associations (s.103(2)).

The consequence is that a Muslim customer mocked for their dress by a service provider, a Muslim tenant subjected to religious harassment by a landlord, or a Muslim pupil harassed by a teacher for wearing the hijab has no civil law remedy for harassment under the Equality Act - while a Jewish or Sikh person in the same circumstances does, because those communities are classified as racial groups and benefit from the full harassment protection that race attracts. This disparity has no principled justification. It flows directly from the racialisation gap identified in section 9. Closing that gap through a statutory amendment would simultaneously resolve the section 26 asymmetry.

## **D. MLegal's Recommendations**

MLegal recommends that the Committee require the UK to:

- Bring sections 9(5)(a) and 14 of the Equality Act 2010 into force and publish a timetable for doing so.
- Amend the definition of race in section 9 of the Equality Act 2010 to include 'racialised religious groups', with accompanying guidance confirming that Jews, Sikhs and Muslims fall within this provision, and as supported by S9(4), that the Fraser criteria are replaced with a modern approach centred on racialisation in practice i.e. the targeting of a homogenised group, like Muslims, irrespective of their internal diversity.
- Extend the socioeconomic duty to England, or provide independently verifiable evidence-based justification as to why it considers this unnecessary given documented Muslim socioeconomic disadvantage, faced by many groups, including Muslims.
- Make equality impact assessments compulsory and publicly available across all jurisdictions and in all relevant policy areas, expressly including immigration, law enforcement, counter-terrorism and Prevent.
- Repeal the carve-outs from section 26 harassment protection on grounds of religion or belief in services, premises, schools and private associations, ensuring that protection against harassment is consistent across all protected characteristics.

## **II. Inadequate Response to Anti-Muslim Discrimination and Hate Speech**

### **A. The Committee's Recommendations**

In paragraph 20 of its concluding observations<sup>12</sup>, the Committee called for comprehensive measures to combat racist hate crimes and hate speech, including against members of the UK's Muslim communities. It called specifically for the withdrawal of the UK's interpretative declaration on Article 4 of the Convention (para. 20(h))<sup>13</sup>, for the adoption of a media strategy addressing the responsibility of journalists and broadcasters (para. 20(b))<sup>14</sup>, and for measures to combat racist hate speech by political and public figures (para. 20(g))<sup>15</sup>. In paragraph 19<sup>16</sup>, the Committee expressed concern about hate crimes, hate speech and xenophobic incidents against ethnic and ethno-religious minorities and expressly included persons belonging to Muslim communities among the groups affected. This is significant because UK domestic law does not expressly recognise Muslims as a racialised religious group for the purposes of race discrimination protection.

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

## B. The UK's Response

The Government has recently introduced a non-statutory definition of anti-Muslim hostility<sup>17</sup>. The definition recognises that Muslims, and persons perceived to be Muslim, may be targeted through assumptions about ethnicity, race or appearance, and expressly refers to racialisation. This is a materially higher threshold than the effects-based framework already established in domestic equality and human rights law. The UK's follow-up response does not engage with the Committee's call to withdraw its interpretative declaration on Article 4.

## C. MLegal's Analysis

### The Intent-Based Definition: Reinforcing Hierarchical Protection

The intent requirement in the Government's definition of anti-Muslim hostility is incoherent and inconsistent with current provisions on other forms of bigotry. Established domestic law already recognises that discrimination can occur without discriminatory intent: indirect discrimination under section 19 of the Equality Act 2010 applies where a provision, criterion or practice puts persons of a particular protected characteristic at a particular disadvantage, regardless of the intention behind it. Harassment under section 26 is assessed by reference to the impact on the victim's dignity and whether reasonably felt - not by reference to what the perpetrator intended.

The definition also repeats an existing inequality in legal protection against incitement. Under the Public Order Act 1986, stirring up racial hatred may be established where racial hatred is intended or, having regard to all the circumstances, likely to be stirred up. By contrast, stirring up religious hatred requires proof of intention. Since Muslims are generally protected in domestic law on grounds of religion rather than race, repeating an intent threshold in the definition of anti-Muslim hostility risks reinforcing the narrower protection already available to Muslim communities.

This risk is heightened by the Government's commitment to appoint a Special Representative on anti-Muslim hostility<sup>18</sup> to lead work facilitating understanding and implementation of the definition across various sectors and contexts. Unless the definition is revised, or implemented alongside an approach capable of recognising indirect, structural and institutional discrimination, its intent-based limitations may become embedded in institutional practice with Government endorsement.

The Government's non-legal definition also asserts a lower protection threshold than the law it is supposed to complement. This is opposite to the definition adopted on antisemitism which rightly extends the protection in law and captures shades of antisemitism that would otherwise go unchallenged. The Government definition does not capture the most common forms of institutional and state Islamophobia - the discriminatory referral, the racialised assumption embedded in policy, the hostile environment created by patterns of conduct - because these operate without conscious intent. Islamophobia characteristically operates through the racialisation of Muslimness: through assumptions about Muslim names, dress, cultural practices and political loyalties. These assumptions are not experienced as hatred by those who manifest them. They are expressed through policy, as professional judgment, in safeguarding concern. An intent-based definition will not encompass them.

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<sup>17</sup> Ministry of Housing, Communities and Local Government (2026). *A Definition of Anti-Muslim Hostility*. [online] GOV.UK. Available at: <https://www.gov.uk/guidance/a-definition-of-anti-muslim-hostility>.

<sup>18</sup> Ministry of Housing, Communities and Local Government (2026). *Action plan launched to build stronger communities*. [online] GOV.UK. Available at: <https://www.gov.uk/government/news/action-plan-launched-to-build-stronger-communities>.

This matters directly for Prevent and for wider institutional responses to Muslim communities. Discriminatory treatment is unlikely to be expressed as explicit anti-Muslim hostility; rather, it may operate through the institutionalisation of assumptions that Muslim expression, practice or presence is inherently suspicious. This may include the treatment of Muslim religious practice as a sign of extremism, political speech or criticism of state violence abroad as an indicator of radicalisation, or wider narratives that question Muslim loyalty, family life or demographic presence. An intent-based definition is unlikely to capture such patterns where they are presented as professional judgment, safeguarding concern, risk assessment or public-policy discourse. It may therefore make it harder, rather than easier, to identify and challenge discriminatory institutional conduct.

### **The Three-Domain Framework and the Anti-Muslim Hostility Definition**

Islamophobia, like antisemitism and all forms of bigotry, based on whatever characteristic, operates in three interrelated domains: othering (stereotypes, demeaning public narratives, political and media discourses that construct Muslims as threatening outsiders); discrimination (profiling, differential treatment, denial of opportunity); and hostility (incitement, intimidation, hate crimes). These domains are mutually reinforcing othering legitimises discrimination, which, in turn, normalises hostility.

The Government's definition<sup>19</sup>, focused on intent to promote hatred or disadvantage, captures only the sharpest ends of these domains and ignores the rest of the domains – the more subtle forms of bigotry. This limitation is reinforced by the terminology adopted: “anti-Muslim hostility” risks narrowing the issue to overt hostility, whereas Islamophobia also encompasses racialised stereotyping, exclusion and disadvantage. Taken together, the terminology and intent requirement fall short of the Committee's concern with structural and institutional discrimination.

### **Article 4 and the Racial/Religious Incitement Asymmetry**

The UK's interpretative declaration on Article 4 of the Convention limits its obligations under the prohibition on incitement to racial and religious hatred. The Government has not engaged with the Committee's call to withdraw this declaration. The consequence is that the UK continues to maintain a higher threshold for the prosecution of incitement to religious hatred (requiring threatening words or behaviour with intent to stir up religious hatred, and subject to a sweeping free speech protection clause under the Racial and Religious Hatred Act 2006) than for racial hatred (where abusive and insulting language likely to stir up hatred can suffice). The Law Commission's 2021 review<sup>20</sup> of hate crime law recommended a single unified test for all forms of stirring up hatred offences, with the free speech protection clause retained and extended.

This disparity between incitement to racial and religious hatred directly disadvantages Muslim communities who are protected only as a religious group under current law and cannot access the lower-threshold racial incitement provisions available to Jews and Sikhs. Addressing this requires both withdrawal of the interpretative declaration and amendment of the statutory definition of race to include racialised religious groups. These are complementary rather than alternative measures.

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<sup>19</sup> Ministry of Housing, Communities and Local Government (2026). *A Definition of Anti-Muslim Hostility*. [online] GOV.UK. Available at: <https://www.gov.uk/guidance/a-definition-of-anti-muslim-hostility>.

<sup>20</sup> The Law Commission (2021). *Hate crime laws: Final report HC 942 Law Com No 402*. [online] Available at: <https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/54/2025/12/Hate-crime-report-accessible.pdf>.

## Asymmetry in Institutional Response: Antisemitism and Islamophobia

The UK has adopted the IHRA working definition of antisemitism<sup>21</sup>, appointed a Special Envoy on Antisemitism, developed a government wide strategy to tackle antisemitism, committed government resources to Holocaust Memorial Day and Holocaust education, funded the reporting, recording and monitoring of antisemitic incidents and the protection of Jewish community assets like synagogues and schools, funded training on antisemitism in the public sector, and established a norm of governmental condemnation of antisemitic speech by public figures. In March 2026, the Government also launched an independent review<sup>22</sup>, led by Sir David Bell, into how schools and colleges in England identify, respond to and prevent antisemitism, with recommendations due by Autumn 2026. In October 2025, it commissioned Lord Mann<sup>23</sup> to undertake a review into how antisemitism and other forms of racism are addressed in healthcare regulation and across the NHS. Such provisions have not been equivalently and as consistently applied to Islamophobia. Anti-Muslim narratives advanced by elected representatives and media outlets in the contexts of immigration, counter-terrorism and social cohesion have not been consistently challenged or sanctioned. The visible asymmetry in institutional responses reflects and reinforces the legal hierarchy identified in Section I. A Government that has adopted an intent-based definition of anti-Muslim hostility and pointedly avoided the use of terminology favoured by the subject group, maintained its declaration on Article 4, and declined to legislate for Muslims as a racialised group cannot credibly claim to be meeting its obligations under the Convention.

### D. MLegal's Recommendations

MLegal recommends that the Committee require the UK to:

- Withdraw its interpretative declaration on Article 4 of the Convention and give full effect to the prohibition on incitement to racial and religious hatred.
- Adopt the Law Commission's<sup>24</sup> recommendations for a single test for stirring up hatred offences, a single Hate Crime Act and consistent protection across the different protected characteristics, including race and religion.
- Revise the non-statutory definition of anti-Muslim hostility to remove the intent requirement, bringing it into alignment with the effects-based framework of domestic equality and human rights law, and with the three-domain framework of othering, discrimination and hostility.
- Ensure all counter-terrorism and social cohesion frameworks clearly protect lawful religious and political expression, and explicitly exclude the peaceful practice of religion, discussion of foreign policy, support for Palestinian rights and anti-racism advocacy from indicators of extremism.

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<sup>21</sup> Ministry of Housing, Communities & Local Government (2018 to 2021) (2016). *Government leads the way in tackling anti-Semitism*. [online] GOV.UK. Available at:

<https://www.gov.uk/government/news/government-leads-the-way-in-tackling-anti-semitism>.

<sup>22</sup> Department for Education (2026). *Government launch antisemitism review into schools and colleges*. [online] GOV.UK. Available at: <https://www.gov.uk/government/news/government-launch-antisemitism-review-into-schools-and-colleges>.

<sup>23</sup> Department of Health and Social Care, (2025). *Government to tackle antisemitism and other racism in the NHS*. [online] GOV.UK. Available at: <https://www.gov.uk/government/news/government-to-tackle-antisemitism-and-other-racism-in-the-nhs>.

<sup>24</sup> The Law Commission (2021). *Hate crime laws: Final report HC 942 Law Com No 402*. [online] Available at: <https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/54/2025/12/Hate-crime-report-accessible.pdf>.

### III. Absence of Legislative Prohibition on Racial Profiling

#### A. The Committee's Recommendations

In paragraphs 32(c) and 30 of its concluding observations<sup>25</sup>, the Committee recommended that the UK adopt legislative and other measures that explicitly prohibit racial profiling, and ensure the exercise of the right to freedom of peaceful assembly without discrimination. It called for the establishment of an independent complaint mechanism with powers to investigate racial profiling, stop-and-search, strip searches and excessive use of force, and to provide effective remedies and adequate reparations to victims (para. 32(e)). The Committee separately flagged the misuse of Schedule 7 of the Terrorism Act 2000 for stop-and-search noting its disproportionate impact on ethnic minorities (para. 31).

#### B. The UK's Response

The UK has taken no action to introduce a legislative prohibition on racial profiling. On information relating to paragraph 30 (8.), the Government's follow-up response<sup>26</sup> states that it has "reaffirmed the commitment" to conduct "expedited post-legislative scrutiny" of the Public Order Act 2023 "starting in May 2025" and that it will "carefully consider the outputs". It states that police use of force must be "reasonable, proportionate and necessary." There is no mention of racial profiling, no mention of the discriminatory impact on Muslim or racialised communities documented by civil society, no mention of pro-Palestinian protests, and no mention of an independent complaints mechanism. The EHRC, in its own monitoring of UK compliance with CERD recommendations, has confirmed that the Government has taken no action to prevent racial profiling by law enforcement: no laws explicitly prohibiting racial profiling have been introduced, and no concrete steps have been taken to end the practice by police, immigration officers or other public officials<sup>27</sup>

#### C. MLegal's Analysis

##### The Legal Framework Gap

The Public Sector Equality Duty (section 149, Equality Act 2010) does not explicitly prohibit racial profiling. It requires public bodies to have due regard to equality considerations, but it does not impose a specific obligation not to profile by race or religion. The consequence is that racially disproportionate outcomes in stop-and-search, Prevent referrals, immigration checks and Schedule 7 detentions can be, and have been, justified on security or operational grounds without the legal constraint that an explicit prohibition would impose.

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<sup>25</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>26</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>27</sup> Equality and Human Rights Commission (2025a). *More government action needed to tackle racial discrimination despite some steps to meet international obligations, says human rights regulator* | EHRC. [online] Equalityhumanrights.com. Available at: <https://www.equalityhumanrights.com/media-centre/news/more-government-action-needed-tackle-racial-discrimination-despite-some-steps>.

Muslim and minority leg organisations have submitted evidence in multiple proceedings concerning racial profiling across policing, immigration and Prevent. That evidence demonstrates a consistent pattern: disproportionate impact on Muslim and racialised communities that is acknowledged in data but justified by reference to perceived risk. Without an explicit prohibition, there is no legal mechanism through which groups or individuals can challenge the practice itself - only the particular application of it in specific cases. This is structurally inadequate.

### **Schedule 7 and Immigration Profiling**

The misuse of Schedule 7 of the Terrorism Act 2000<sup>28</sup> - which permits stop, examination, detention and search of individuals at ports and airports without the requirement of reasonable suspicion - has had a disproportionate impact on Muslim and racialised communities. The absence of a reasonable suspicion requirement, combined with the absence of a profiling prohibition, creates the conditions for systematic racial and religious profiling in immigration and border contexts. This is directly relevant to the Committee's concerns in paragraph 31<sup>29</sup>, which specifically identifies Schedule 7 misuse and the disproportionate impact on ethnic minorities as a cause for concern.

### **Protest Policing and the Crime and Policing Bill**

The Committee's concern about peaceful assembly (para. 30)<sup>30</sup> has been deepened by subsequent legislative and operational developments. The Police, Crime, Sentencing and Courts Act 2022<sup>31</sup> and the Public Order Act 2023<sup>32</sup> introduced broad powers whose discriminatory application has been documented in relation to pro-Palestinian marches. The same powers have not been applied equally to far-right assemblies involving explicit anti-Muslim rhetoric and, in several cases, violence.<sup>8</sup>

The Crime and Policing Act 2026<sup>33</sup> introduces further risks. Its provisions on restricting protests near places of worship create powers that, without an accompanying prohibition on racial and religious profiling, may expose Muslim communities to a dual vulnerability: communities targeted by anti-Muslim hostility may also be disproportionately affected by protest restrictions in the vicinity of their places of worship. The absence of a profiling prohibition means there is no express legal safeguard against those powers being applied disproportionately to Muslim communities and their supporters.

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<sup>28</sup> Terrorism Act 2000 (2011). *Terrorism Act 2000*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2000/11/schedule/7>.

<sup>29</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

<sup>30</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

<sup>31</sup> Police, Crime, Sentencing and Courts Act 2022 (2022). *Police, Crime, Sentencing and Courts Act 2022*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2022/32/contents>.

<sup>32</sup> Public Order Act 2023 (2023). *Public Order Act 2023*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2023/15>.

<sup>33</sup> Crime and Policing Act 2026 (2026). *Crime and Policing Act 2026*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2026/20/contents/enacted>.

## Biometric Surveillance and Facial Recognition

The Committee expressed concern in paragraph 36(d)<sup>34</sup> about the use of artificial intelligence systems and biometric surveillance technologies and their discriminatory effects on ethnic minorities. The continued deployment of facial recognition technology at protests and in public spaces raises compounded concerns: the technology has documented accuracy disparities by race, and its use at protests involving Muslim and racialised communities raises the risk of discriminatory profiling through technical means. Without an explicit prohibition on racial profiling, these technological tools operate in a legal vacuum with respect to the Convention's requirements.

## The Child Q Principle in Education Settings

The case of Child Q,<sup>35</sup> a Black schoolgirl subjected to a deeply invasive strip search at school, illustrates how racialised suspicion can operate at the intersection of education, safeguarding and policing. Although not a Prevent case, it is relevant by analogy because Prevent also relies on school staff and public authorities identifying and escalating perceived risk. It demonstrates why education settings require robust safeguards, recording duties, equality monitoring and independent routes to remedy when State suspicion is directed at children. The absence of an explicit legal prohibition means there is no clear legal basis on which a school, teacher or local authority can be told that a Prevent decision was unlawful because it was racially or religiously motivated. This is the gap the Committee's recommendation in paragraph 32(c)<sup>36</sup> is directly aimed at.

## D. MLegal's Recommendations

MLegal recommends that the Committee require the UK to:

- Introduce an explicit legislative prohibition on racial and religious profiling across all public authorities, including police, immigration officers, Prevent duty-bearers, education institutions and healthcare bodies to be balanced with, not bypassed by, security needs.
- Introduce a reasonable suspicion requirement for Schedule 7 stops or, alternatively, repeal Schedule 7 powers that operate without such a requirement.
- Prohibit the use of facial recognition technology at protests pending independent assessment of its discriminatory impact.
- Establish an independent complaints body with powers to investigate allegations of racial and religious profiling across policing, immigration, education and Prevent, to compel evidence, and to provide effective remedies and reparations.

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<sup>34</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

<sup>35</sup> CHSCP (2022). *Local Child Safeguarding Practice Review – Child Q* | *chscp*. [online] Chscp. Available at: <https://chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/>.

<sup>36</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

## IV. Structural Failures in the Prevent Framework

### A. The Committee's Recommendations

The Committee's recommendations on counter-terrorism (paras. 34 and 65)<sup>37</sup> are the most urgent in its concluding observations for the purposes of the Committee's one-year follow-up. The Committee urged the UK to revise CONTEST and Prevent to eliminate discriminatory and disproportionate impact on ethnic and ethno-religious minorities, including children. It recommended suspending the Prevent duty pending that revision. It called for effective and independent monitoring mechanisms, adequate safeguards, access to personal data, prompt and effective remedies, and adequate reparations for those negatively affected.

### B. The UK's Response

The UK has not suspended Prevent. Its follow-up response<sup>38</sup> describes CONTEST and Prevent as “ideologically agnostic” frameworks that do not target any one ideology, faith or ethnic group. However, the avoidance of express targeting does not demonstrate the absence of a discriminatory effect on Muslim communities in practice. It points to the Standards and Compliance Unit (StACU)<sup>39</sup>, launched in February 2024, and the appointment of an Interim Independent Prevent Commissioner in January 2025<sup>40</sup>, as evidence of improved oversight. A permanent Independent Prevent Commissioner has since been appointed. It states that an equality impact assessment was completed and that the Public Sector Equality Duty is being complied with. It provides some referral and Channel data for the year ending March 2024 but does not publish this data disaggregated by race, religion or ethnicity. It does not address the Committee’s recommendation to suspend Prevent, does not engage with the structural equality concerns the Committee identified, and does not describe any mechanism capable of providing remedy to individuals harmed by discriminatory referrals.

Since the Committee's recommendations, the Social Cohesion Action Plan<sup>41</sup> has further expanded Prevent's reach rather than curtailing it. Framing Prevent as a safeguarding or social cohesion tool does not address its structural discriminatory impact - it obscures it, while the same institutions and communities bear the consequences.

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<sup>37</sup> Ibid.

<sup>38</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>39</sup> Commission for Countering Extremism (2024). *Standards and Compliance Unit launched to oversee Prevent*. [online] GOV.UK. Available at: <https://www.gov.uk/government/news/standards-and-compliance-unit-launched-to-oversee-prevent>.

<sup>40</sup> Home Office (2025). *Independent Prevent Commissioner*. [online] GOV.UK. Available at: <https://www.gov.uk/government/collections/independent-prevent-commissioner>.

<sup>41</sup> Ministry of Housing, Communities & Local Government (2026). *Protecting What Matters: Towards a more confident, cohesive, and resilient United Kingdom*. [online] GOV.UK. Available at: <https://www.gov.uk/government/publications/protecting-what-matters-towards-a-more-confident-cohesive-and-resilient-united-kingdom/protecting-what-matters-towards-a-more-confident-cohesive-and-resilient-united-kingdom>.

## C. MLegal's Analysis

### 1. The Government's Own Data Does Not Demonstrate Compliance

The Government's follow-up response<sup>42</sup> reports 6,922 referrals to Prevent in the year ending March 2024, of which 512 were adopted as Channel cases. It presents the Channel adoption data by ideology: 45 per cent (230) for extreme right-wing concerns, 23 per cent (118) for Islamist concerns, and 18 per cent (90) for conflicted ideology. The Government offers this breakdown as evidence that Prevent is ideologically agnostic. This presentation, however, obscures rather than resolves the disproportionality concern.

Although the Government's follow-up response refers only to type-of-concern data for those referrals adopted as Channel cases, separate published Home Office Statistics<sup>43</sup> provide type-of-concern data for the wider referral population in England and Wales. Of the 6,922 referrals for which type of concern was specified, 2,489 concerned vulnerabilities without identified ideology or counter-terrorism risk; 1,314 concerned extreme right-wing ideology; 1,278 were categorised as conflicted; and 913 concerned Islamist ideology. The evidential gap is therefore not an absence of published type-of-concern data, but the absence of published data disaggregated by race, religion or ethnicity. Without such data, the Government has not enabled assessment of whether Muslim or racialised individuals are disproportionately referred, assessed or otherwise affected by Prevent, including where a referral does not proceed to Channel.

The Government's own follow-up response<sup>44</sup> confirms that, in Scotland, Police Scotland does not record the ethnicity of Prevent referrals, significantly limiting independent assessment of discriminatory impact there. Separate Home Office statistics<sup>45</sup> for England and Wales also show that education was the single largest referral source, accounting for 2,788 referrals, or 40 per cent of all referrals, in 2023/24. This reinforces the need for transparent equality monitoring of Prevent's impact in education settings. The question is not whether the Government has published referral categories; it is whether any discriminatory impact on Muslim and racialised communities within the overall referral population has been identified, assessed and subjected to effective remedy. The available Government material does not answer that question.

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<sup>42</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>43</sup> Home Office (2024). *Individuals referred to and supported through the Prevent Programme | England and Wales, April 2023 to March 2024: data tables*. [online] Service.gov.uk. Available at:

<https://assets.publishing.service.gov.uk/media/674d8ae807045bdb881ee1f7/individuals-referred-to-and-supported-through-the-prevent-programme-apr2023-mar2024-data-tables.ods>.

<sup>44</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>45</sup> Home Office (2024). *Individuals referred to and supported through the Prevent Programme | England and Wales, April 2023 to March 2024: data tables*. [online] Service.gov.uk. Available at:

<https://assets.publishing.service.gov.uk/media/674d8ae807045bdb881ee1f7/individuals-referred-to-and-supported-through-the-prevent-programme-apr2023-mar2024-data-tables.ods>.

Where a policy is implemented across education, healthcare, local government, prisons, policing and other public services, equality assessment cannot be treated as an internal administrative exercise. Prevent is not a narrow Home Office programme. It is a statutory duty embedded across public life. The ordinary safeguards expected of public authorities under equality law should therefore apply at every level of Prevent delivery.

## **2. Prevent's Failures Are Structural, Not Delivery Failures**

Prevent is structurally discriminatory. It operates through predictive assessments of future risk inferred from belief, identity, political expression and perceived ideological vulnerability. It requires public sector workers across education, health, local government and employment to assess and report on Muslim and racialised individuals without the legal or conceptual tools to distinguish ordinary religious and political expression from genuine risk. And it does so without the legal safeguards - a racial profiling prohibition, statutory recognition of Muslims as a racialised group, a properly functioning public sector equality duty, an established accountability framework etc - that might otherwise constrain its discriminatory operation.

This is the pre-crime logic at the heart of Prevent: individuals may be monitored or referred not because they have committed an offence but because a public authority speculates that they might. Ordinary expressions of grief, anger or solidarity - particularly in relation to Palestine, racism or foreign policy - are treated as evidence of instability rather than lawful democratic participation. Muslim religious practice, political speech, and assembly, cultural identity and expressions of Muslimness are assessed by non-specialists without adequate training or legal constraint. This concern is heightened where Prevent is expanded or reframed through social cohesion, safeguarding, universities, schools, charities or civil society spaces. A genuine safeguarding approach should be locally led, rights-based, trauma-informed and independent of counter-terrorism policing. It should address need, not ideology. Prevent then becomes one part of a wider system in which Muslims are over-policed when they speak and under-protected when they are targeted.

Prevent duty-bearers operate without a profiling prohibition, within a legal system that does not protect Muslims as a racialised group, and under a definition of anti-Muslim hostility that requires intent and therefore cannot capture the structural/institutional bias/discrimination the Committee is concerned about. Amnesty International UK<sup>46</sup> has found that Prevent has a chilling effect on human rights, including freedom of expression, thought, conscience and religion, and that vague concepts such as “extremism” and “radicalisation” can lead people to self-censor. These are not failures that can be remedied through improved training or references to the Equality Act 2010 in the Codes of Practice. They require the legislative reforms set out in Sections I, II and III of this submission. The four areas addressed here are, in this sense, a single structural problem.

## **3. The Oversight Mechanisms Do Not Meet the Committee’s Standard**

The Committee’s recommendation required prompt remedies and adequate reparations for those negatively affected by Prevent. The mechanisms identified by the Government do not meet that threshold. StaCU is concerned with whether Prevent is delivered in line with Government policy; it is not an independent remedy mechanism capable of investigating discriminatory harm, securing disclosure or deletion of data, addressing reputational and chilling effects, or providing meaningful redress to affected individuals and communities. The Government’s follow-up response also points to the appointment of an Interim Independent Prevent Commissioner in January 2025. MLegal welcomes independent scrutiny of Prevent in principle. However, the Commissioner as currently

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<sup>46</sup> Amnesty International UK (2023). *'This is the thought police' The Prevent duty and its chilling effect on human rights*. [online] Available at: <https://media.amnesty.org.uk/documents/Amnesty20UK20Prevent20report2028129.pdf>.

constituted does not meet the standard the Committee’s recommendation requires. The Commissioner’s remit, as described in the Government’s response, is to review Prevent’s “effectiveness” and “identify gaps and problems before they emerge”<sup>47</sup> - a programme-improvement function, not a rights-monitoring one. The Commissioner has not been placed on a statutory footing, does not have powers to compel disclosure from Prevent duty-bearers, cannot investigate systemic discrimination, cannot require data correction or deletion, and cannot order or recommend remedies to individuals harmed by discriminatory referrals. The Government’s own follow-up response notes explicitly that Prevent does not fall under the statutory remit of the Independent Reviewer of Terrorism Legislation. The Prevent Commissioner therefore sits outside the statutory accountability framework that governs the rest of the counter-terrorism system. Oversight without statutory powers, without a rights mandate and without remedial functions is not commensurate with the quality of independent monitoring the Committee has called for.

The need for stronger independent oversight of counter-terrorism powers is also reflected in the Independent Commission on UK Counter-Terrorism Law, Policy and Practice<sup>48</sup>, supported by the Bingham Centre for the Rule of Law, which recommended enhanced accountability, transparency and scrutiny across the counter-terrorism framework. The Government’s claim that Prevent is “ideologically agnostic” further demonstrates why independent oversight with a rights mandate is necessary rather than optional. An “ideologically agnostic” framework applied through a legal environment in which Muslims are not protected as a racialised group, in which there is no profiling prohibition, and in which 6,410 of 6,922 referrals are not broken down by ethnicity or religion, cannot demonstrate that its impact is in fact agnostic. The claim of ideological agnosticism is not a substitute for the full transparent publication of disaggregated data, independent assessment and effective remedy the Committee’s recommendations require.

This is consistent with wider concerns in the counter-terrorism field. Amnesty International and the Open Society Foundations<sup>49</sup> have identified that many counter-terrorism measures are imposed through opaque processes, sometimes on the basis of secret information, leaving individuals with little or no access to the material relied on against them and therefore no meaningful ability to challenge the restriction or obtain an effective remedy.

Without such a mechanism, affected communities are left with the burden of pursuing complex and expensive legal routes. That is not an effective remedy. It is a wilful transfer of responsibility from the State to individuals least able to bear the cost of enforcing their rights.

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<sup>47</sup> Committee on the Elimination of Racial Discrimination (2025), *Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports*. UN Doc CERD/C/GBR/FCO/24-26. [online] Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGBR%2FFCO%2F24-26&Lang=en).

<sup>48</sup> Choudhury, T. (2025). *Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice Chair: The Rt. Hon. Sir Declan Morgan KC PC Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice*. [online] The Bingham Centre for the Rule of Law. Available at: [https://binghamcentre.biicl.org/documents/170\\_biicl\\_uk\\_counter-terrorism\\_report\\_digital\\_12-11-25\\_final\\_reduced.pdf](https://binghamcentre.biicl.org/documents/170_biicl_uk_counter-terrorism_report_digital_12-11-25_final_reduced.pdf).

<sup>49</sup> Amnesty International (2021). *Europe: A Human Rights Guide for researching racial and religious discrimination in counter-terrorism*. [online] Amnesty International. Available at: <https://www.amnesty.org/en/documents/eur01/3606/2021/en/>.

#### 4. Access to Personal Data and the Right to Effective Remedy

The Committee raised concerns<sup>50</sup> about access to personal data. MLegal considers this an issue of central importance. Prevent operates across education, healthcare, local authorities, policing and other public services, and referrals can generate records across multiple institutional systems. Even where no further action is taken, individuals may not know what has been recorded, who has seen it, whether it has been retained, or how it may affect them in future.

This is particularly serious for children. A child wrongly referred to Prevent may carry the consequences of that referral into later education, employment, immigration, security vetting or interaction with public authorities. Families may have little practical ability to obtain records, challenge inaccuracies or secure deletion. The burden is again placed on individuals to navigate complex data protection law, often without legal advice.

MLegal recommends that the Committee ask the UK to establish a clear statutory right for individuals referred to Prevent to be notified of the referral, subject only to strictly necessary and proportionate exceptions. Individuals should be informed of:

- the fact of referral;
- the reason for referral;
- the data recorded;
- the bodies with whom the data has been shared;
- the period for which the data will be retained;
- the outcome of the referral;
- their right to challenge the accuracy or lawfulness of the data; and
- their right to request deletion or restriction of processing.

Even if individual complaints are acknowledged, affected individuals may face no clear or effective pathway in practice through which they can secure disclosure of data held about them, correction or deletion<sup>51</sup> of inaccurate or unnecessary information, recognition that a referral was discriminatory or unnecessary, an apology, compensation, or wider institutional change. For children and young people referred through schools, universities, health services or social care, the impact can be long-lasting. They may never know what information was recorded, shared or retained, yet the association with counter-terrorism can shape their relationship with public services and chill their willingness to speak about religion, politics, racism, Palestine or foreign policy.

These concerns are particularly acute for children in education: Rights Watch UK<sup>52</sup> (now Rights and Security International) found that Prevent engages children's rights to education, privacy, non-discrimination and their best interests under the UN Convention on the Rights of the Child, including where referral information may be retained without a clear basis. The Government's proposal to consider ending lifelong disclosure requirements<sup>53</sup> for childhood offences strengthens the case for

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<sup>50</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2F24-26&Lang=en).

<sup>51</sup> Amnesty International UK (2023). *'This is the thought police' The Prevent duty and its chilling effect on human rights*. [online] Available at: <https://media.amnesty.org.uk/documents/Amnesty20UK20Prevent20report2028129.pdf>.

<sup>52</sup> Rights Watch UK (2016). *Preventing education? Human rights and uk counter-terrorism policy in schools*. [online] Available at: <https://www.rightsandsecurity.org/wp-content/uploads/2025/07/Preventing-Education.pdf>.

<sup>53</sup> Ministry of Justice (2026). *Youth Justice overhaul to keep streets safer*. [online] GOV.UK. Available at: <https://www.gov.uk/government/news/youth-justice-overhaul-to-keep-streets-safer>.

equivalent protections in the Prevent context, where a child may be recorded on the basis of perceived future risk without having committed any offence.

This engages Article 6 of the Convention<sup>54</sup> as much as it engages data protection law. A remedy is not effective if the individual does not know that they were referred, does not know what information was recorded, cannot access or correct that information, and cannot secure deletion where no further action was taken. The right to remedy must include access to justice, compensation where appropriate, rehabilitation, satisfaction, guarantees of non-repetition, and practical steps to remove the continuing effects of discriminatory or unnecessary referrals.

The EHRC has found that the UK Government has taken no action to prevent racial profiling by law enforcement, including by failing to introduce laws that explicitly prohibit racial profiling or to take steps to end the practice by police, immigration officers and other public officials<sup>55</sup> This is directly relevant to Prevent, which functions through public authorities and public officials identifying, recording and escalating perceived risk in ways that can reproduce racialised and religious profiling.

## 5. Sector-Specific Impact: Education and the Workplace

The education sector is the single largest source of Prevent referrals. A child referred for lawful expression - discussing Palestine, criticising foreign policy, or expressing religious identity - experiences the incident not as safeguarding but as racialised suspicion by the State. The EHRC has noted<sup>56</sup> limited action on racist bullying in schools, including the absence of statutory recording requirements. The same transparency deficit applies to Prevent referrals: without consistent disaggregated recording, it is not possible to assess how often Muslim and racialised children are referred, on what basis, or with what outcome. Such experiences cannot be addressed if they are not transparently recorded, monitored and remedied.

In workplaces, Muslim employees may face heightened scrutiny for political expression, religious practice or perceived ideological views, with limited internal routes to challenge decisions framed as safeguarding. Prevent is implemented through thousands of decisions by public sector workers: its discriminatory impact is produced not only by legislation and guidance but by institutional cultures, training materials, risk indicators and data-sharing practices. The Committee should not accept national-level assurances as a substitute for sector-by-sector data and independent scrutiny.

## D. MLegal's Recommendations

MLegal recommends that the Committee require the UK to:

- Suspend the Prevent duty, as the Committee recommended, noting that the Social Cohesion Action Plan's expansion of Prevent since the Committee's observations constitutes direct non-compliance and with wilful defiance against this recommendation.
- Publish a revised equality impact assessment for Prevent based on disaggregated referral data by race, religion, age, gender, disability, region, referring sector, ideology category and outcome.
- Require all duty-bearers to publish equality impact assessments and data protection information.

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<sup>54</sup> United Nations (1965). *International Convention on the Elimination of All Forms of Racial Discrimination*. [online] OHCHR. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

<sup>55</sup> Equality and Human Rights Commission (2025a). *More government action needed to tackle racial discrimination despite some steps to meet international obligations, says human rights regulator* | EHRC. [online] Equalityhumanrights.com. Available at: <https://www.equalityhumanrights.com/media-centre/news/more-government-action-needed-tackle-racial-discrimination-despite-some-steps>.

<sup>56</sup> Ibid.

- Establish a genuinely independent statutory oversight mechanism for Prevent, placed on a statutory footing, structurally independent of the Home Office, with powers to: receive complaints from individuals, families and civil society; investigate individual and systemic discrimination; compel disclosure from all Prevent duty-bearers; require correction, deletion or restriction of improperly retained data; recommend or order remedies including apologies, compensation and institutional reform; and report to Parliament independently.
- Harmonise data protection and remedial safeguards across all Prevent duty-bearers and bodies holding Prevent-related data, so that rights of notification, access, correction, restriction, deletion and challenge do not depend on which public authority recorded, shared or retained the information.
- Establish a statutory right for individuals referred to Prevent to be notified of the referral, its basis, the data recorded, the bodies with which information has been shared, the retention period, the outcome, and their rights to challenge and deletion; and publish standard data retention periods for Prevent-related records.
- Introduce an explicit legislative prohibition on racial and religious profiling in all Prevent-related decision-making across policing, immigration, education, healthcare and other public authorities.
- Conduct an independent sector-by-sector review of Prevent implementation in education, healthcare, local government and employment, with meaningful participation from Muslim-led organisations and affected communities, examining training materials, risk indicators, referral patterns, data retention and complaint accessibility.

## V. Conclusion

The four areas addressed by the Committee and in this submission are not independent concerns. They are connected by a common architecture of non-compliance. The UK's failure to enact dormant equality provisions has left Muslims without the same statutory protection available to other racialised religious groups. The Government's approach to Islamophobia relies on a narrowly prescribed anti-Muslim hostility definition which is itself handicapped by an intent-based provision that is inconsistent and incompatible with its own equality law and incapable of capturing the institutional and structural forms of discrimination and bias the Committee identified. The absence of a legal prohibition on racial profiling means that every framework in which profiling occurs - including policing, immigration and Prevent - operates without the explicit legal constraint the Convention requires. Prevent cannot be reformed in isolation from these deeper structural gaps: it depends on a legal environment in which Muslims are not fully protected as a racialised group, in which their discrimination can be explained away as security necessity, and in which no independent mechanism exists to remedy the harm caused.

The UK Government's response does not demonstrate compliance with the Committee's recommendations: it does not show that Prevent has been suspended, that its discriminatory impact has been eliminated, that affected communities have access to effective remedy, that the equality assessment relied upon by the Government is supported by data capable of properly assessing discrimination, that the dormant equality provisions identified by the Committee have been enacted, that an adequate definition of anti-Muslim bigotry has been adopted, or that any legislative prohibition on racial profiling is in prospect. These failures form a paradigm of structural and institutional discrimination: Muslims are not protected as a racialised group in domestic law; the definition of anti-Muslim hostility requires intent; there is no legal prohibition on profiling them; and the frameworks that profile them most consistently - Schedule 7, immigration enforcement, stop-and-search and Prevent - operate without independent oversight capable of providing remedy, contrary to what the Committee required.

MLegal's submission demonstrates that the problem is not merely isolated misapplication, but a structural failure of equality governance, transparency and remedy. Read alongside casework-based evidence from organisations supporting affected individuals and families, the picture that emerges is one of a State that describes existing frameworks as adequate, withholds the data needed to test that claim, and continues to operate a counter-terrorism duty whose discriminatory impact is acknowledged in its own statistics but justified on security grounds without the transparent scrutiny that justification requires.

The Committee's recommendations in paragraphs 14, 20, 30, 32 and 34<sup>57</sup> are directly responsive to this pattern. MLegal respectfully urges the Committee to press the UK for the legislative and institutional changes set out in this submission and to decline to accept assurances in place of evidence.

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<sup>57</sup> Committee on the Elimination of Racial Discrimination (2024), *Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland* (23 August 2024) UN Doc CERD/C/GBR/CO/24-26. [online] Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FGBR%2FCO%2F24-26&Lang=en).

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