

Racism at Work – NBPA Conference

By Lawrence Davies LLM

A fairer society?

Theresa May – Woman paid less than men (18% - 60 years to close gap (2016)).
Black people not treated fairly in criminal justice system.

1. Criminal Justice System (Race Disparity Report (2017))

Black, Asian and Minority Ethnic (BAME) groups appear to be overrepresented at most stages throughout the CJS (MOJ Stats 2014)

Statistically, BAME people are more likely to be:

Excluded school	- x3
Poor quality housing	
Stop and searched	- x6 (same as 1993)
Arrested	- x3.5 Dorset – 127/1000 – Essex – 18/1000
Charged	- x3 (MOJ Stats (2014))
Convicted	- MOJ Stats (2014) – white rates higher Lavinia Woodward – too bright for jail PC Thomas Pearson - “stellar” future BAME - Wrongly arrested/charged?
Receive a longer sentence	- x3 (MOJ Stats 2014) NB: culture of reducing sentences
Wrongly convicted?	- Sultan Alam (Cleveland)
Be in prison	- Lammy Review (Sept 2017) (41% - less 18 years old)

2. Society and work (Race Disparity Report (2017))

19.5% UK population BAME

98% BAME live in urban areas –

more 50% BAME population live in London, Birmingham and Manchester

Statistically, BAME people are more likely to be:

Living in poverty	-	20% (10%) Lifespan 9 years less Suicide rates higher?
Victim of crime	-	Black men x2 MOJ Stats 2014 “significantly higher”
Unemployed	-	x2.5 10% (4%) Pakistani and Bangladeshi - highest More self-employed Employed – 74% (white) 59% (BAME) (2013) Easier to find new work in work
Less likely to be recruited	-	28% applicants/17% appointees (MPS) (Guardian 1/1/16) 32/45 forces appoint greater % white applicants (Guardian 1/1/16) 42% BAME graduates (57%) (Race into Work report (2015))
Engaged in low paid/insecure work	-	1/13 (1/20) (TUC Report (June 2017))
Under-employed (greater skills/role)	-	15.3% (11.2%) (TUC Report (Aug 2016))
Not receiving equal pay	-	Up to 42% less Equal pay day – 31 July 2018 (Women – 10 November 2018) Graduate – 23% less (EHRC) Worse – EP Questionnaire (2014)
Not receive training/acting up/ Promotion	-	19% (Is Racism real? TUC (2017))
Glass Ceiling	-	4.4% ChInsp or above (MPS) (2018)

		cf: 7% senior managers (NHS)
		6% UK senior managers (Ruby McGregor-Smith (2017))
		1% - 2/201 chief officers (HASC – May 2016)
		11 forces no BME officers above rank of chief inspector
		2.8% ACPO rank (2013) - 48 Supt or above – situation become worse
Being harassed/ hostile working environment	-	37% BAME (Is Racism real? TUC (2017))
		43% race victims do not report
		32% experienced or witnessed racism (Race at Work (2015))
		52% witnessed racism (Kearn Pandola (2018))
		Most (66%) not report
		0.01% ET1 (EJS)
Being subject to misconduct	-	x2 (MOPAC Dec 2016)
		More than 20% senior officers BAME
Receiving disciplinary sanction	-	More likely to be substantiated (MOPAC Dec 2016)
Being dismissed	-	x3 (police) (Tola Munro)
		cf: 0.1% - 2/2,270 MPS accused racist behaviour 2007-2012 were dismissed (retired)
Being victimised	-	Anecdotal – Gurpal Viridi; Carol in Howard.

3. Why?

(a) Racial prejudice

British Social Attitudes Survey (BSA)

(very or little racially prejudiced) -	Always more than 25% 39% (1987); 25% (2001); 37% (2011); 26% (2017)
Regional variation	2012/13 C London 16% Midlands 35% (BSA)
(b) Lack of (economic) power	3% (36/1,000) (Colour of Power (2017) 0.7% (7/1000) BAME women
(c) Retention of power	

4. Racial prejudice is getting worse

Hate crimes (race – 83% (EHRC))- 2011/12 – c 36,000 race hate
2015/16 – c 49,400 race hate

89% increase in hate incidents at schools (during Brexit campaign)

Post-Brexit - Daily reported attacks – “celebratory racism”

the firebombing of a halal butchers in Walsall

graffiti on a Polish community centre in London

“No more Polish vermin” laminated cards apparently posted through letterboxes in Huntingdon.

a mixed-race man being racially abused on a Manchester tram.

two Muslim women in Bethnal Green, east London, had eggs thrown at them on the street

a black woman on a bus had a bunch of bananas placed on the chair next to her and was told to ‘fuck off back to your country’.

an Italian man was punched to the ground for asking another man which way he voted in the referendum

True Vision (hate reporting site) - 57% increase

Tell Mama (tackles Islamophobia) (40-45 reports a month average) - 33 within 48-72 hours.

NB: Hate crime is under-reported – 80% or greater that that actually reported (Stop Hate UK)

cf: Third party harassment made lawful at work (2013) – employer is not liable for actions of third party in the workplace

5. Effect on BAME officer?

Just stats/Does not affect me – not yet (hopefully never).

Complain about racism

Witness racism and report it (mental health impact of not reporting)

Reach the glass ceiling

Change in team/management (rotten apples)

Residual impact – work harder, longer hours, better qualified, possibly, have to look away. Likely to under-employed. Probably being paid 42% less (overtime/promotion)

Brian Paddick – “Don’t shine too brightly. They don’t like it”

When/if it does affect, it is very corrosive to job security and damaging to mental health.

Stigma can follow BAME officer in the form of victimisation (7 year case)

Plan for worst case scenario – support NBPA; participate in PFEW (you’re your rep); take out Home Contents (legal expenses) insurance (police officers)

cf: Impact on white men – more likely to be employed, promoted, grievances upheld, supported by witnesses, much less likely to be disciplined or dismissed (retired).

Benefited from 150 years of positive discrimination

Sense of entitlement

Affinity bias

Oppose change

Racist officers? – will be supported, won’t be made accountable, not sacked

Freemasons – AC Helen King – her appointment was proof that no longer needed to be a Mason to achieve senior management.

6. Effect on police forces

UK forces are not representative of BAME population

UK - 6% BAME police (2017) (19.5% BAME population)

London - 14.2% BAME police (2018) (40% BAME population)

Least representative forces – MPS; West Midlands; Bedfordshire; City of London, West Yorkshire, Greater Manchester and Surrey

cf: New York City 2013 – 27% BAME police (49% BAME population)
("Hispanic" – 49%)

May 2016 - Home Affairs Select Committee – BAME representation in police is shocking and "pitiful"

Glass Pyramids

- Neyroud review (2011) – By 2022 – 7% BAME in senior ranks
- 2013 - 2.8% BAME officers ACPO rank (48 BAME Supts or above)
- 2016 – Pitiful – 1% Chief Officers BAME (2/201) and 11/43 forces no BAME officers above chief inspector
- March 2018 - MPS **4% BAME chief inspector or above**

Current -

Commander and above (BAME male/female/total BAME/total all) –
1/0/**1/31**; Chief Supt/DCS - 4/0/**4/50**; Supt 5/4/**9/186**; Chief Insp/DCI
9/5/**14/311**

Supt and above - 14/267 (0.05%)

Chief Inspector and above - 28/597 (4%)

Male 19 – Female 9 (lower ranks)

Positive Discrimination?

Northern Ireland – Patten reforms – Catholic representation 18-30% (2001/11)

Sir Bernard Hogan-Howe - law should be changed to allow the force to introduce positive discrimination and introduce 50:50 recruitment.

Theresa May has opposed such a move, saying it was "deeply flawed" and would require a derogation under EU law to make it legal. When a proposal to endorse Hogan-Howe's positive discrimination approach was considered by the MPs it was voted down by five votes to two.

7. Grievance and disciplinary process (Carol Howard)

99% race grievances are rejected

Grievance outcome re-written under DPS instructions

Written DPS policy – no discrimination findings

EHRC formal investigation – took ACAS/Lewis point as starting point (DPS fit for purpose); written policy withdrawn; not interview corrupt DPS officers)

New Grievance process – bounced by DPS into misconduct process

Discrimination Investigations Unit – under the control of the DPS

BAME fear victimisation – insufficient evidence of victimisation (unproven or invented?)

IOPC – Moir Stewart (ex-DPS Commander) – supervised investigation (DPS to investigate if DPS are corrupt) (liaison point DAC Fiona Taylor)

Awaiting outcome (4 years) – all wrong-doers promoted and/or retired except DI Dave Kelly (long-term sick leave/full pay); DPS officers not interviewed or served papers

8. Enforceable right and effective remedies?

Not an enforceable right –

3 month time-limit (43% not report at time)

Very difficult to prove – increasingly so

95% litigants in person lose (lose - do not win or settle)

Only 2% race claims are currently successful at Tribunal

No effective remedy –

£13,000 average award (2017)

Compensatory (minor personal injury) and not aggravated

No punitive damages (£7,500)

Wrong-doers not punished – very likely to be promoted and/or retired

Costs/award – no legal aid

Solution -

Transfer to safe working environment (cf: victimisation)

Settle complaint/claim

Leave? Carol Howard; Nadeem Saddique

Win – Zaheer Ahmed (keep diary at home/get early legal advice/ensure funding is in place/available)

9. Stephen Lawrence

Stephen Lawrence report – institutional racism (not illegal)

Race Relations (Amendment) Act 2001 – no enforceable rights

25th Anniversary memorial event –

“Stephen Lawrence. Why?”

“Please do NOT make this into a race issue. It most definitely is not, and sir I am offended by your inference. It is merely the fact that Stephen Lawrence, as tragic as his death was has nothing to do with Leicestershire Police. The memorial garden is (was) for the Leicestershire Police Family. Perhaps a tree for Lee Rigby?”

10. The financial cost of racial discrimination

£2.6 billion - INvolve and the Centre for Economics and Business Research (CEBR) (Feb 2018)

The Point 1888 – MPS T-shirts, toys, and mugs