



Equality and  
Diversity Forum

**Who's Still Missing?  
Refugees, migrants and the  
equality agenda**

A report for the Equality and Diversity Forum

May 2011

Dr Phil McCarvill, Institute for Public Policy Research (ippr)

## About the Equality and Diversity Forum

The Equality and Diversity Forum (EDF) is a network of national organisations committed to equal opportunities, social justice, good community relations, respect for human rights and an end to discrimination based on age, disability, gender and gender identity, race, religion or belief, and sexual orientation.

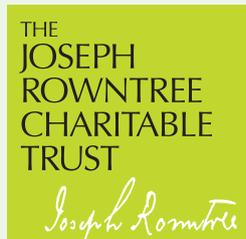
For details of EDF activities and membership, or to subscribe to EDF's free electronic newsletter, visit [www.edf.org.uk](http://www.edf.org.uk).

Please contact the Equality and Diversity Forum (details below) if you would like to order copies of this report or if you would like the report in a different format.

This report was produced with the support of The Diana, Princess of Wales Memorial Fund and Trust for London.



The Equality and Diversity Forum also thanks the Joseph Rowntree Charitable Foundation and the Barrow Cadbury Trust for supporting our work.



We would like to thank all those who contributed their time to inform the research on which this report is based. We also thank members of the project Steering Group for their invaluable input to the project and report.

Published by the Equality and Diversity Forum in May 2011

Equality and Diversity Forum  
Tavis House, 1-6 Tavistock Square  
London WC1H 9NA

Tel + 44 (0) 20 303 31454  
email: [info@edf.org.uk](mailto:info@edf.org.uk)  
website: [www.edf.org.uk](http://www.edf.org.uk)

# **Who's Still Missing? Refugees, migrants and the equality agenda**

A report for the Equality and Diversity Forum

May 2011

Dr Phil McCarvill, Institute for Public Policy Research (ippr)

---

This report was commissioned by the Equality and Diversity Forum. The views expressed in it are those of the author and are not necessarily those of the Equality and Diversity Forum or its members.



# Table of Contents

- Foreword by the Equality and Diversity Forum ..... **1**
- Executive summary ..... **3**
- 1.0 Introduction ..... **6**
- 2.0 Methodology ..... **8**
- 3.0 Refugee and migrant communities and the Race Equality Duty ..... **9**
- 4.0 Race Equality Duty audit: Meeting the needs of refugee  
and migrant communities ..... **16**
- 5.0 A focus on three authorities ..... **24**
- 6.0 The new Equality Duty and refugee and migrant communities ..... **32**
- 7.0 Conclusion and recommendations ..... **40**
- Bibliography ..... **43**



## Foreword by the Equality and Diversity Forum

The project on which this report is based came about when members of the Equality and Diversity Forum (EDF), keenly engaged in debates on reform of equality policy in 2009, asked 'Where do refugees and migrants fit into this evolving equality landscape and how can we ensure that they benefit from plans to strengthen anti-discrimination law?'. Recognising that there was no easy answer, EDF held a roundtable bringing together representatives of refugee, migrant and equality NGOs to explore whether there was a gap in equality provision and if so, how to bridge it.

The response from the roundtable strongly suggested that, while refugees and migrants are often among the most disadvantaged and marginalised members of society, equality measures have not tended to be seen – by public bodies or NGOs – as part of the solution. In particular, it appeared that public bodies were not always embracing refugees and migrants within the steps they were taking to promote racial equality and good race relations, and that this required some explanation. The financial crisis seemed likely to reduce the capacity of public and voluntary service providers to support refugees and migrants; hence the need to ensure that any steps taken to address inequality take account of the particular challenges experienced by these communities gained added urgency.

In this context, EDF felt that the Equality Act 2010 and subsequent introduction of the integrated public sector Equality Duty in April 2011 presented an opportunity which should not be missed. With the support of The Diana, Princess of Wales Memorial Fund and Trust for London, EDF commissioned this study of the extent to which the discrimination and disadvantage experienced by refugees and migrants has been addressed by local authorities in London (in particular) within their equality strategies: to provide evidence of good practice on which to build and to demonstrate ways in which *all* public bodies could use the new equality framework to provide better services for all – including refugees and migrants.

The study, conducted by Dr Phil McCarvill at ippr, was not intended to be comprehensive but to give an indication of current practice. His report reminds us of the evidence on the inequality experienced within migrant and refugee communities and of the community relations issues that need to be addressed, alongside the challenges experienced by other disadvantaged communities. It demonstrates that some local authorities have used the existing Race Equality Duty to address the particular experiences of migrants and refugees; yet many have not done so, some authorities mistakenly believing refugees and migrants to be outside the remit of equality law. Dr McCarvill explains why refugees and migrants are indeed covered by the Race Equality Duty and are now covered by the broader Equality Duty under the 2010 Equality Act, demonstrating – in often simple and affordable ways – how that Duty can now be used as a lever for change. It is our hope that his report will stimulate authorities to think creatively about ways in which they can develop an inclusive equality strategy: tackling discrimination, advancing equality and good relations for all members of the community, including those who originally came to the UK from abroad.



Dr Moira Dustin

Director of Communications and Research, Equality and Diversity Forum



## Executive Summary

‘Anyone who has ever been on the receiving end of discrimination knows how painful, hurtful and damaging it can be and why we should seek to eliminate it from our society. And anyone who has ever witnessed discrimination would want to stamp it out. So equality is not just important to us as individuals. It is also essential to our wellbeing as a society...’

(Rt Hon Theresa May, Home Secretary and Minister for Women and Equalities)<sup>1</sup>

The discrimination and marginalisation experienced by refugees and migrants in the UK is widely recognised. Yet until now, the equality framework has not been seen or used as a tool to address that disadvantage. This is surprising given the obvious connection between refugee and migrant needs on the one hand, and the Equality Act 2010 provisions relating to the promotion of equality and good relations and elimination of discrimination and harassment on the other.

The introduction of the new Equality Duty in April 2011 provides an opportunity for public authorities to review and improve the way they meet the needs of their refugee and migrant populations. The new Equality Duty builds on the foundations provided by the previous Race, Disability and Gender Equality Duties, while providing greater potential to support refugees and migrants in a number of ways: firstly, the Duty extends coverage to new grounds, including sexual orientation, gender reassignment, pregnancy and maternity, religion or belief and age, offering protection to refugees and migrants that fall into these categories; secondly, it replaces the need to ‘promote’ with a stronger emphasis on ‘advancing’ and ‘fostering’ equality and good relations; finally, it emphasises the need for public authorities to demonstrate the progress they are making in improving outcomes for different groups and communities.

Coinciding with the introduction of the new Duty and to help ensure that organisations working with refugees and migrants take advantage of the opportunities provided, the Equality and Diversity Forum commissioned research to explore what lessons can be learnt from the implementation of the previous Race Equality Duty and consider how public authorities can most effectively use the new Duty to incorporate refugee and migrant communities into their core work.

The research comprised three stages:

1. A desk based review of the extent to which local boroughs in London and the City of London were integrating refugee and migrant communities into their work in respect of the Race Equality Duty.

---

<sup>1</sup> Speech on 17 November 2010 available at [http://www.equalities.gov.uk/ministers/speeches-1/equalities\\_strategy\\_speech.aspx](http://www.equalities.gov.uk/ministers/speeches-1/equalities_strategy_speech.aspx).

2. A practice review documenting how three public bodies have organised and prioritised their work with refugee and migrant communities.
3. An examination of what the new Equality Duty will mean for relevant public authorities, with a set of practical suggestions to help them better meet the needs of refugee and migrant communities.

The desk based review, which was undertaken in December 2010, measured the degree to which thirty-two London local authorities (boroughs) and the City of London had incorporated a focus on refugee and migrant communities into organisational race equality schemes and equality impact assessments.

The review found that only twelve of the authorities included explicit references to refugee and migrants in their race equality schemes, with only five considered to have included specific actions in relation to these groups. In addition, twelve of the authorities did not appear to have a current equality scheme at the time of the review. Similarly, there was little evidence to suggest that local authorities in London were routinely incorporating a consideration of refugee and migrant communities into equality impact assessments of all relevant policy and service developments. Only four of the authorities had published assessments which included a consideration of refugee and migrant communities. The remaining twenty-nine authorities had not included references to refugees and migrants in any published equality impact assessments identified. At least six authorities had failed to publish any such assessments in the preceding two years.

It is clear that most of the authorities reviewed had not made an explicit link between refugee and migrant communities and the Race Equality Duty. There may be various reasons for this omission, however the second stage of the project appears to indicate that there was a confusion regarding the legal status of refugee and migrant communities in respect of the Race Equality Duty. The fact that refugees and migrants were not named in the legislation that created the Duty appears to have translated into a perception that refugee and migrant communities were not explicitly covered by the Race Duty. All three practitioners interviewed stated that their organisations had taken an inclusive approach to these groups despite this perception on the part of some staff. However, as this report makes clear, most refugees and migrants should have been covered by virtue of their colour, nationality (including citizenship), ethnic or national origins. They should also have been covered in relation to the duty to promote good relations, and in respect of the Disability and Gender Equality Duties.

Looking ahead, the advent of the new Duty is an opportunity to learn the lessons of the past and for public bodies to make better use of equality measures to address the needs of disadvantaged individuals. Being a refugee or migrant is just one aspect of an individual's identity. The broadening of the Duty to cover new equality grounds increases its potential to address the reality of refugees' and migrants' experiences of discrimination not only on the basis of race, gender and disability, but

also sexual orientation, gender reassignment, pregnancy and maternity, religion or belief and age. Similarly, the greater emphasis on transparency and demonstrating progress will mean that public authorities will have to articulate how what they do affects different groups and communities, including refugee and migrants.

## **Recommendations**

1. To address poor coverage of refugee and migrants under the Equality Duty:
  - Public authorities should include refugee and migrant communities in the work they undertake to ensure 'due regard' to the new Equality Duty.
  - the Equality and Human Rights Commission, the Government Equalities Office and other relevant inspectorates and advisory bodies should develop guidance and briefings setting out how public authorities can best reflect the needs of refugees and migrants in the work they undertake in order to have 'due regard' to the three elements of the General Duty of the new Equality Duty.
2. To address considerable data and information gaps:
  - The Equality and Human Rights Commission should develop guidance for public authorities on how to collect appropriate information and data in respect of refugee and migrant communities. This should reflect the clear sensitivities which are associated with collecting data regarding immigration status.
3. To remove apparent confusion regarding the legal position of refugee and migrant communities in respect of the Equality Duty:
  - the Equality and Human Rights Commission should specifically clarify the legal position and provide clear messages regarding inclusion of refugee and migrant communities in relevant Equality Duty guidance.
4. To address previous poor coverage of refugee and migrants in assessments of impact under the previous Duty:
  - the Equality and Human Rights Commission and other strategic bodies should include refugee and migrant communities in any relevant advice and guidance to help authorities to assess the impact of what they do in order to have 'due regard' to the General Duty under the new Equality Duty and improve outcomes for these communities.

## 1.0 Introduction

Evidence suggests that refugees and migrants experience discrimination and disadvantage across a number of areas, including education, health and employment (we highlight some of this evidence in Section 3 below). The UK's equality legislation provides useful levers for addressing these problems: in particular, the shift in recent years to the promotion of equality and good relations alongside recognition of the duty to eliminate discrimination appears to offer public bodies a framework for developing proactive strategies to support refugee and migrant populations who often experience high levels of discrimination and harassment. Yet, as this report suggests, these levers have not been used as well as they might have been. Many staff and service providers are committed to improving the circumstances of refugees and migrants but often do not realise that equality provisions can help them in their work.

This report takes the introduction of the new Equality Duty as an opportunity for public authorities to improve the way they meet the needs of their refugee and migrant populations. The new Equality Duty was introduced as part of the Equality Act 2010 and came into effect on 5th April 2011. The new Duty supersedes the previous Race, Disability and Gender Equality Duties. It marks a significant shift in focus, with its expansion to new equality grounds, greater emphasis on outcomes rather than processes and a greater responsibility on public authorities to demonstrate how they have exercised 'due regard' to the need to:

- a). eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This is the General Duty. As with the previous Race, Gender and Disability Duties, the new Duty also comprises Specific Duties on public bodies to support better performance of the General Duty. At the time of writing, the detail of the new Specific Duties was under review.

The Government Equalities Office has stated that the Duty should reduce:

...burdens and bureaucracy on public bodies, moving away from a process-driven approach to a focus on transparency in order to free up public bodies to do what is appropriate in their circumstances, to take responsibility for their own performance, and to be held to account by the public. This means a shift in approach – a focus on performance, not process.<sup>2</sup>

---

<sup>2</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy - Policy review paper*. London: GEO, p.1.

It concludes: 'We want the Duty to achieve real changes in people's lives and experiences'.<sup>3</sup>

The new Equality Duty covers colour, nationality (including citizenship), ethnic or national origins, as did the previous Race Equality Duty.<sup>4</sup> It incorporates the previous Gender and Disability Duties, as well as covering religion or belief, sexual orientation and age and making more explicit the requirements in respect of gender reassignment, pregnancy and maternity. It means that public authorities must have 'due regard' (as above) in respect of a greater number of equality grounds.

Part of this report plots progress of local authorities in London in implementation of the previous Race Equality Duty in respect of refugees and migrants. Readers of this report may ask: why look back? Why commission research on a piece of legislation shortly before it is superseded? There are two reasons: firstly, to provide a baseline of evidence in terms of the performance of authorities in using equality law to address refugee and migrant needs. This gives an indication of where improvement is needed at precisely the time when public authorities are considering how they should approach the new Equality Duty. Secondly, key requirements for the new Duty remain essentially the same as those of the preceding Race, Gender and Disability Duties. This is particularly true of the General Duty where public authorities are still required to have 'due regard' to the need to eliminate discrimination and promote equality and good relations. This research provides a bridge between the past and future Duties by analysing the implementation of the old Race Equality Duty as the basis for proposals on how to utilise the new Duty.

Put briefly, as organisations consider what the new Equality Duty means for their work, it is important to take stock of what lessons can be learnt from the implementation of the previous Race Equality Duty in respect of refugee and migrant communities. This will help us to understand what the new Equality Duty can offer to public authorities addressing the discrimination and disadvantage of their refugee and migrant populations. This report is the first step in that process. We hope that public bodies will use it to both refocus attention and shape guidance and support under the new Equality Duty in respect of refugees and migrants, to improve outcomes for these individuals.

In developing this project, we have been mindful of the diversity of refugee and migrant experiences and identities. However, our focus is on those refugees and migrants who are most socially and economically excluded and those who are eligible for key public services.

This report was commissioned as part of the Equality and Diversity Forum's Refugee and Migrant Equality project, supported by The Diana, Princess of Wales Memorial Fund and Trust for London.

---

<sup>3</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy - Policy review paper*. London: GEO, p.2.

<sup>4</sup> Equality and Human Rights Commission (2010) *The essential guide to the public sector equality duty*. London: EHRC, p.53.

## 2.0 Methodology

The small scale study underpinning this report was intended to provide a snapshot of performance in respect of the Race Equality Duty. It comprised three stages. Firstly, desk based research which examined the degree to which local authorities in London (thirty-two London boroughs plus the City of London) included a consideration of the needs of refugee and migrants in their activities to meet the requirements of the Race Equality Duty (Section 4). This not only looked at the publications which local authorities were required to publish as part of the Duty, but also any relevant examples of practice which prioritised the needs of local refugee and migrant communities, whether or not these were undertaken under the auspices of the Duty. The overarching aim was to identify whether authorities were using the Race Equality Duty to meet the needs of refugee and migrant communities. While the needs of refugees and migrants should also have been addressed under the previous Gender and Disability Equality Duties where appropriate, it was beyond this project's resources to include all three Duties in the audit.

Whilst one would not normally rely solely on web based materials to measure activity, the fact that the Race Equality Duty included a specific requirement for public authorities to publish a specified set of materials means that this methodology is an appropriate one in this instance. The focus was primarily on the publication of equality schemes, equality impact assessments, equality impact assessment templates and associated annual reports. In addition, further research was undertaken to identify wider examples of local authorities' refugee and migrant work.

The second phase (Section 5) comprised interviews with representatives of three authorities. Those included one London local authority, a non-London local authority and a strategic agency – the Greater London Authority. In the case of the two local authorities, the relevant officers agreed to participate in the project on the basis of anonymity. In the case of the Greater London Authority (GLA), the unique role and position of the organisation means that it would be impossible to disguise its identity. Therefore, the GLA kindly consented to waive its anonymity. The intention was to explore some of the ways that public bodies have attempted to address refugee and migrant needs to inform future provision.

The third phase (Section 6) explored how public authorities might use the new public sector Equality Duty, which came into effect in April 2011, to ensure a strong and consistent focus on refugee and migrant communities. This examined how the new Duty could be applied to deliver improved outcomes for refugee and migrant communities, with a series of effective practice ideas identified, intended to help public bodies improve the way in which they address the needs of refugees and migrants bodies in their work.

The report's Conclusion (Section 7) outlines the key findings of the project and sets out some recommendations for public bodies intended to improve outcomes for refugee and migrant communities.

Whilst the research in Section 4 covers London authorities only, much of the report and its recommendations have a wider relevance.

### 3.0 Refugee and migrant communities and the Race Equality Duty

This section sets out the context for the remainder of the report. It provides an overview of some of the key evidence of refugee and migrant disadvantage, particularly in respect to areas of public service delivery, and explores the legislative framework provided by the Race Equality Duty.

#### Refugees and migrants in the UK

It is estimated that migrant communities represent 34% of London's resident population, with a quarter of the migrants having arrived in the capital in the last five years.<sup>5</sup> Nationally, Census data shows the foreign-born population as 4.9 million (8.3% of the population) in 2001, while Labour Force Survey data from 2007 suggest that 10.7% of the UK population was born abroad.<sup>6</sup>

Refugees and migrants are a diverse group of individuals, including those who have entered the United Kingdom via the asylum system, as international students, as economic migrants or to join family members already in the UK. In a paper exploring the restrictions on the rights of migrants according to their differing immigration status, Spencer and Pobjoy identify eight of the principal categories of migrants for the purposes of their study: European nationals; Non EEA Labour Migrants; Non EEA students; family members; young people on the Youth Mobility scheme; refugees; asylum seekers; and refused asylum seekers – a list which is far from exhaustive.<sup>7</sup>

In this paper, we use the term migrant to refer to anyone who was born outside of the UK and who has come to the UK for at least a year (thus excluding temporary visitors). While that definition includes those who have been in the UK for many years, we recognise that it is in the early years after arrival that that term is most appropriate and that this is the time when migrants can experience the greatest challenges in relation to jobs and services. Among them are refugees; that is, people who have been granted refugee status by the Home Office (according to the definition of a refugee under the UN Convention on Refugees); and asylum seekers, who have applied for that status.

Different entitlements and exceptions apply to each of these groups. Some individuals are denied access to public services and benefits because of their immigration status. The detail of these entitlements is beyond the scope of our research but it is important

---

<sup>5</sup> Gidley, B. & Jayaweera, H. (2010) *An Evidence Base on Migration and Integration in London*. Oxford: COMPAS, p.21.

<sup>6</sup> Rutter, J. & Latorre, M. (2009) *Social housing allocation and immigrant communities*. London: EHRC, p.7.

<sup>7</sup> Spencer, S. and Pobjoy, J. (2011) *The relationship between immigration status and rights in the UK: Exploring the rationale*. COMPAS Working Paper 11-86. Oxford: COMPAS.

to acknowledge that this is a complex and potentially confusing area, as this may be one of the reasons inhibiting service providers from fully addressing the needs of refugees and migrants.

In relation to equality law, the Equality and Human Rights Commission has provided helpful clarification, including confirmation that:

Asylum-seekers and refugees and all other persons subject to immigration control are protected by the EA2010 [Equality Act 2010]. However, there are a number of exceptions in the EA2010 which may affect its applicability to persons subject to immigration control. ...It should be noted that the duty to pay due regard to the fostering of good relations applies to all functions without exception.<sup>8</sup>

Refugees and migrants have very different experiences of life in the UK. While some have successfully integrated into UK society, others experience levels of deprivation that place them amongst the most economically and socially excluded in society. It is this grouping which is the main focus for the research.

The purpose of the section is not to provide an exhaustive review of the available literature or a comprehensive mapping, but rather to offer an overview of some areas of public service provision and draw attention to some of the problems refugees and migrants face more generally. However, in attempting to do so, one encounters an immediate barrier – the absence of comprehensive, nuanced data which details the experiences, levels of provision of public services and outcomes for these communities. As Aspinall and Watters note, there are whole areas of public service delivery in which there is ‘only limited data’ available regarding the experiences of refugee and migrant communities. They conclude that ‘there is little official data available on the group and few large-scale quantitative studies’.<sup>9</sup>

What data is available indicates some important factors in how refugees and migrants use services, their experiences and resulting outcomes.

In education, there are particular concerns relating to refugee and migrant children who often start formal education with lower levels of proficiency in the English language.<sup>10</sup> This places them at a distinct disadvantage when compared to their peers. Elsewhere in the system, there is evidence of poorer attainment levels for children from some refugee and migrant communities at different key stages and poorer outcomes at GCSE and A-level.<sup>11</sup>

---

<sup>8</sup> Equality and Human Rights Commission (2011) ‘The Equality Act 2011 and its application to asylum-seekers and refugees’. Legal opinion. EHRC.

<sup>9</sup> Aspinall, P. & Watters. C. (2010) *Refugees and asylum seekers: A review from an equality and human rights perspective*. London: EHRC, p.1.

<sup>10</sup> Aspinall, P. & Watters. C. (2010), p.42.

<sup>11</sup> Aspinall, P. & Watters. C. (2010), p.41.

It is important to disaggregate evidence on refugees and migrants. As Aspinall and Watters note 'A homogenisation of refugee children militate[s] against a recognition of specific refugee children'.<sup>12</sup> This is equally true of wider migrant groups. For example, a broad-brush analysis of the educational performance of Black African children can mask the specifically poor performances of Somali, Sudanese and Ethiopian children.

In health, aside from issues of eligibility, there are concerns relating to GP services: in some instances, language represents a barrier which makes it more difficult for individuals to secure appointments, get the most out consultations and access out-of-hours services. These problems are likely to lead to greater use of acute hospital services.<sup>13</sup>

In mental health, for refugees in particular, the trauma associated with their experiences prior to arriving in the UK and their negotiation of the asylum system and experiences post arrival in the UK often translate into higher rates of use of mental health services.<sup>14</sup>

Moving to employment, there is some evidence of higher rates of non-employment and indeed under-employment of people from refugee and migrant communities.<sup>15</sup> Key issues here include the failure to recognise qualifications which have been gained outside the UK and expenses associated with retraining and registration with professional bodies.<sup>16</sup>

In addition, evidence suggests that negative attitudes to migrants and refugees are commonplace: one survey showed nearly a quarter of respondents thought immigrants were more likely to be involved in criminal activity than people born in Britain, while more than half felt immigrants had a bad influence on 'the way things are going in Great Britain'.<sup>17</sup> At the same time, refugees and migrants often experience high levels of hostility, harassment and racial violence.<sup>18</sup> This evidence has a particular bearing on the duty to promote or foster good relations as part of both the old Race and new Equality Duty discussed below and in the final section of the report.

This overview of some of the available data and research suggests that there are a number of common barriers preventing access to employment and public services

---

<sup>12</sup> Aspinall, P. & Watters. C. (2010), p.42.

<sup>13</sup> Aspinall, P. & Watters. C. (2010), p.20.

<sup>14</sup> Mind (2009) *A Civilised Society: Mental Health Provision for Refugees and Asylum-Seekers in England and Wales*. London: Mind.

<sup>15</sup> Aspinall, P. & Watters. C. (2010), p.47.

<sup>16</sup> Aspinall, P. & Watters. C. (2010), p.56.

<sup>17</sup> Ipsos Mori (2007) *Immigration poll*.

<sup>18</sup> Rutter, J. with Cooley, L., Reynolds, S. and Sheldon, R. (2007) *From Refugee to Citizen: 'Standing On My Own Two Feet'. A research report on integration, 'Britishness' and citizenship*. ippr on behalf of Refugee Support, p.101; Equality and Human Rights Commission (2010) *Not just another statistic. Life in Wales for asylum seekers and refugees*. Cardiff: EHRC. p.13.

and leading to lower outcomes for refugees and migrants across a number of areas.

These barriers include:

- Language issues;
- Poor awareness of available services and entitlements amongst refugee and migrant communities;
- Poor understanding of refugee and migrant communities amongst public authorities and those professionals who deliver key public services;
- Poor targeting of services, due to inadequate data collection and analysis.

Within the context of limited overall information and data collection, it is possible to pull together some rudimentary data regarding gender. These include different experiences of maternity services for refugee and migrant women, specifically in relation to uptake of ante and post natal services with poorer outcomes for both mothers and their babies in the most extreme cases.<sup>19</sup> Similarly, take up of cervical screening and breast screening is lower amongst refugee and migrant women.<sup>20</sup> In both areas, the availability of such data should enable relevant public authorities to take action to address differential outcomes.

However, in terms of other equality grounds, it is almost impossible to plot the specific experiences of disabled, lesbian, gay, bisexual, transgender and older refugees and migrants, and those from different faith or belief groups, due to the absence of consistent data and available research.

Aspinall and Watters have highlighted that this dearth of data has implications for both wider research and for the Equality and Human Rights Commission's Equality Measurement Framework:

Populating the Measurement Framework with indicator data is especially problematic as there is scarcely any routinely collected administrative data and no sampling frames for identifying asylum seekers who become refugees (necessary to obtain a representative sample in survey and qualitative research).<sup>21</sup>

In order to address the inadequacies of existing data collection, a number of local authorities have commissioned bespoke research. And the Greater London Authority

---

<sup>19</sup> Centre for Maternal and Child Enquiries (2011) 'Saving Mothers' Lives: reviewing maternal deaths to make motherhood safer: 2006–08. The Eighth Report on Confidential Enquiries into Maternal Deaths in the United Kingdom'. Centre for Maternal and Child Enquiries (CMACE); Centre for Maternal and Child Enquiries (2007) 'Saving Mothers' Lives: Reviewing Maternal Deaths to make Motherhood Safer: 2003-2005. The Seventh Report of the Confidential Enquiries into Maternal Deaths in the United Kingdom'. Centre for Maternal and Child Enquiries (CMACE).

<sup>20</sup> Aspinall, P. & Watters. C. (2010), p.27.

<sup>21</sup> Aspinall, P. & Watters. C. (2010), p.120.

conducted research into the experiences of refugee communities in London in 2010. Its sample of 1,007 refugees provides an important insight, most notably in relation to employment and housing:

- Almost one in every five of the refugees surveyed is living in overcrowded accommodation (18%).
- The current employment level of the refugees is half that of the population of London overall (31% compared with 61%).<sup>22</sup>

However, the absence of systematic data collection regarding the experiences and needs of refugees and migrants means there will continue to be an overreliance upon local and other snapshot research in the short-term.

## **Delivering public services at a time of budgetary constraint**

A key concern in respect of refugees and migrants is the potential impact of current public sector funding reductions and the likelihood that the impact may disproportionately fall on those who most heavily rely on public services, including refugee and migrant communities.

There is emerging evidence that refugees and migrants are being disproportionately affected by the combination of cuts to mainstream services such as education, social care and children's services and cuts to bespoke services specifically targeted at refugee and migrant communities, such as ESOL and specialist advice services.<sup>23</sup>

In addition, increasing numbers of refugee and migrant voluntary and community organisations have had their funding cut significantly.<sup>24</sup> Cuts in provision are likely to worsen the already poorer outcomes experienced by some refugees and migrants.

Public authorities should consider the equality impact of budget cuts and service reorganisations before making decisions, including giving consideration to the potential impact upon both refugee and migrant communities, and this should extend to any longer term monitoring. The Equality and Human Rights Commission has provided detailed advice on such issues.<sup>25</sup>

---

<sup>22</sup> Ipsos Mori (2010) *A Survey of Refugees Living in London: A Report for the Greater London Authority*, London: GLA, p.5.

<sup>23</sup> McCarvill, P. (2010) *Equality, Entitlements and Localism*. London: ippr; McCarvill, P. (2010) 'Cutting Fairly Locally'. Public Policy Research, Volume 17, Issue 3, pages 135–140, September–November 2010.

<sup>24</sup> Guardian (2011) 'Refugee services to take a heavy hit due to 62% funding cuts', 1 February 2011; Refugee Council (2010) 'The impact of the spending cuts on refugee community organisations'. London: Refugee Council.

<sup>25</sup> Equality and Human Rights Commission (2010) *Using the equality duties to make fair financial decisions: A guide for decision-makers to assessing the equality impact of proposed changes*. London: EHRC.

## The Race Equality Duty

The Race Equality Duty was formally introduced in 2000 and came into effect in 2001. It was superseded by the new Equality Duty in April 2011.

The General Duty required relevant public bodies to have 'due regard to the need to:

- a) eliminate unlawful racial discrimination;
- b) promote equality of opportunity; and
- c) promote good relations between people of different racial groups.<sup>26</sup>

Of relevance here is the potential for addressing the needs of refugees and migrants. Audit Commission guidance for local authorities published in 2004 stated that national agencies should:

Send explicit and consistent messages about why race equality matters to public service delivery. Make this applicable to newer communities, such as asylum seekers and refugees, as well as more established ones.<sup>27</sup>

Whilst refugees and migrants were not specifically named on the face of the legislation, as individuals and communities they are by definition covered: the legislation defined a racial group as 'a group of people defined by their race, colour, nationality (including citizenship), ethnic or national origins'.<sup>28</sup> Moreover, for many individuals, being a refugee or migrant brings additional barriers in terms of equality of opportunity and particular challenges in relation to 'good relations'. Clearly, public authorities should have considered refugees and migrants when developing their work under the Race Equality Duty, and this message was reinforced by the relevant equality commission and the Audit Commission at the time.<sup>29</sup>

In addition to the General Duty, the Race Equality Duty included a series of Specific Duties which were intended to help authorities meet the General Duty. The accompanying Code of Practice required relevant public authorities to set out 'their arrangements' for meeting the Race Equality Duty, including producing a race equality scheme setting out how the authority would meet 'its statutory duties under section 71(1) of the Race Relations Act (the Act) and, in particular, articles 2(2) and 2(3) of the Race Relations Act 1976 (Statutory Duties) Order 2001'.<sup>30</sup>

---

<sup>26</sup> Commission for Racial Equality (2002) *Statutory Code of Practice on the Duty to Promote Race Equality*. London: Commission for Racial Equality.

<sup>27</sup> Audit Commission (2004) *Journey to Race Equality*. London: Audit Commission, p.49.

<sup>28</sup> Commission for Racial Equality (2002) *Statutory Code of Practice on the Duty to Promote Race Equality*. London: Commission for Racial Equality.

<sup>29</sup> Audit Commission (2004) *Journey to Race Equality*. London: Audit Commission.

<sup>30</sup> Commission for Racial Equality (2002) *Statutory Code of Practice on the Duty to Promote Race Equality*. London: Commission for Racial Equality.

The most important point to underline at this juncture is that the sole purpose of the Specific Duties was to enable relevant public authorities to demonstrate their compliance with the General Duty. The Specific Duties were never intended to be an end in themselves.

## **Implementing the statutory duty to promote racial equality**

As noted above, refugees and migrants were clearly covered by the Race Equality Duty on the basis of colour, nationality (including citizenship), ethnic or national origins. One would therefore have expected local authorities to have considered their needs when developing:

- Race equality schemes: the documents which sets out a public authorities arrangements for meeting the Duty – see above;
- Equality impact assessments: the processes whereby public authorities anticipate the potential impact of new and proposed policies in respect of the three elements of the General Duty.

An organisation's race equality scheme might have been expected to identify patterns of inequality for refugee and migrant communities relating to colour, race, ethnicity or nationality, and then to set out what the authority proposed to do over the course of the life of the scheme to address these issues. Similarly, equality impact assessments should routinely have considered the impact of new and proposed policies on refugee and migrant communities, as well as including refugees and migrants in respect of training, monitoring and consultation.

The Race Equality Duty was in place for nearly ten years and by April 2011 (when it was replaced by the new Duty), relevant public authorities should have been on to their third round of race equality schemes and had a significant story to tell in terms of the progress of their race equality work, including their focus on refugee and migrant communities.

## 4.0 Race Equality Duty audit: Meeting the needs of refugee and migrant communities

### Introduction

This section outlines the findings of a review of the work of local authorities in London in relation to refugee and migrant communities and the Race Equality Duty. The formal fieldwork phase of this review took place in December 2010, prior to the introduction of the new Equality Duty. The purpose was to determine what we can learn from the implementation of the previous Race Equality Duty in order to enable public authorities to improve their work on refugee and migrant communities under the new Equality Duty.

The methodology used was an analysis of coverage of refugee and migrant communities in:

- Race equality schemes or generic equality schemes <sup>31</sup>
- Equality impact assessment guidance
- Wider policy and service delivery initiatives
- Relevant practice examples

This information was collated exclusively from material drawn from the local authorities' websites. There are three sets of findings set out here. The first relates to coverage of refugee and migrant communities in published equality schemes. The second concerns equality impact assessment related activity. Finally, there are some relevant practice examples showing a wider focus on the needs of these communities.

### Race equality schemes

As noted previously, prior to April 2011, local authorities were required to publish race equality schemes or generic equality schemes outlining the extent and focus of their work on race equality.

Therefore the review looked at whether:

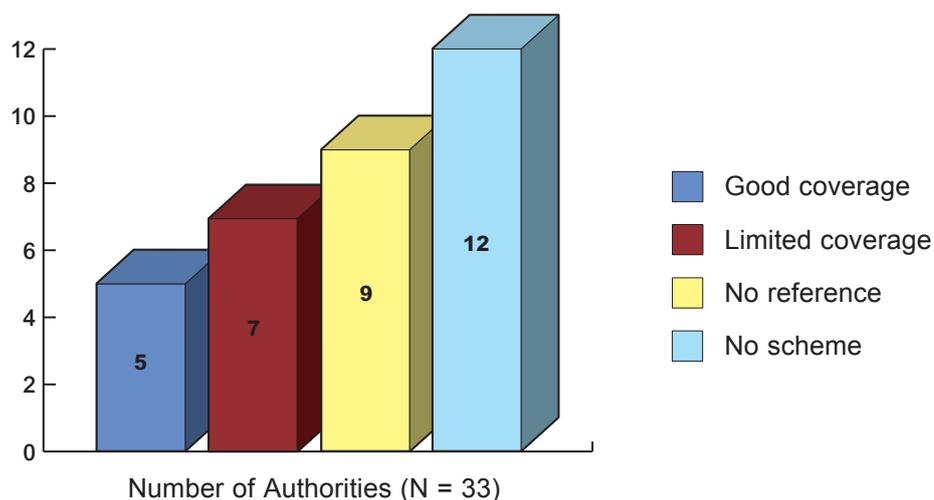
1. The authority had published an equality scheme which was no more than three years old
2. The scheme explicitly referenced refugee and migrant communities.
3. The scheme included analysis of the position and situation of refugee and migrant communities.

---

<sup>31</sup> A number of public authorities incorporated activities in respect of the Race, Disability and Gender Equality Duties into generic equality schemes, with some extending coverage to other equality grounds such as sexual orientation, religion and belief and age.

- The scheme included specific actions intended to improve experiences and outcomes for refugee and migrant communities.

The above criteria were then used to identify four categories of performance. These are set out in figure one.



**Figure 1: Degree to which local authorities had considered the needs of refugee and migrant communities in race equality/equality schemes**

Just twelve of the thirty-three London local authorities (thirty-two London boroughs, plus the City of London) explicitly referred to the needs and/or experiences of refugees and migrants in existing race equality schemes or generic equality schemes. Only five of the authorities dealt with the position of refugees and migrants in detail. What distinguishes these five organisations from the remainder is that they not only referred to refugee and migrant communities in respect of demographic profiles of services, they also provided a needs assessment and/or outlined relevant activities and actions relating to refugee and migrant groups. For example, one of the five authorities published a demographic profile of refugee and migrant communities. This contained a needs analysis covering service delivery areas such as housing, education, social care and public health to be addressed via the organisation’s corporate equality action plan. The plan included sector-specific data, for example on levels of unemployment among new communities – people from Africa, Asia and EU Accession States.

A small number of these authorities decided to effectively treat refugees and migrants as a separate equality ground for the purposes of both their equality schemes and equality impact assessments. One authority directed its staff to gather ‘relevant equality data’ under headings including disability, gender and ethnicity, but also data on refugees and asylum seekers as well as poverty and deprivation.

In each case, the five authorities made an explicit link between the Race Equality Duty and their work with refugee and migrant communities. The real significance here is that this demonstrates what a valuable lever an Equality Duty can be in addressing refugee and migrant needs.

The next group of seven authorities recognised that refugees and migrants were covered by the Duty and included limited references to refugee and migrant communities, but subsequently failed to outline any significant actions. In some instances, the single reference to refugee and migrant communities appeared as part of the outline of the borough's demographic profile. For example, one borough's scheme highlighted a number of crucial barriers faced by refugees and migrants seeking to use public services, such as problems in accessing information. However, it did not go on to set out any specific actions as part of relevant equality action plans. In each case inclusion was little more than cursory.

The next nine authorities made no reference to refugee and migrant communities in their equality schemes. No connection appeared to have been made here between the authorities' duty in respect of race equality and the needs and experiences of their refugee and migrant communities.

The remaining twelve authorities, which represent more than one third of London's local authorities, did not have an up-to-date published race equality scheme or generic equality scheme at the time of the research. On the basis of what was listed on its corporate website, one authority did not appear to have published a functioning race equality scheme since its initial scheme expired in May 2005. In each of these cases, it was therefore not possible to determine what Duty focused activities in respect of refugees and migrants the authorities had undertaken. Some further desk-based research was conducted in relation to these twelve authorities to investigate whether the lack of an equality scheme was compensated for by refugee and migrant related activities elsewhere. However, a summary search of policy documents and related reports tended only to reveal evidence of some funding for third sector agencies and occasional references to cultural festivals.

## **What this means for the new Equality Duty**

The levels of non-publication of race equality schemes would suggest that a number of these authorities failed to fulfil the requirements of the Race Equality Duty

However, whilst there is no longer a requirement to produce documentation in any predetermined form under the new Equality Duty, authorities will still be required to demonstrate how they have had 'due regard' to the General Duty. This will require them to include groups such as refugee and migrant communities in any on-going monitoring of outcomes in order to demonstrate the impact of their work on the different communities they serve.

The concern here is that if refugee and migrant communities have been missed out of the more formulaic, process orientated approaches afforded by equality schemes under the previous Duties, the risk that they will continue to be excluded is even greater when authorities are left to determine for themselves how best to demonstrate their compliance with the new Duty.

## **Equality impact assessments**

Given the fact that the current legal requirements have been superseded by the new Equality Duty in April 2010, and that the new Duty does not explicitly require public authorities to develop and publish equality schemes, perhaps some of the concerns regarding equality schemes could be offset if there were evidence that these authorities were effectively considering the needs of refugee and migrant communities as part of their equality impact assessments.

It is important to begin with an understanding of what an equality impact assessment is. The Equality and Human Rights Commission defines it accordingly:

An equality impact assessment (EIA) is a tool that helps public authorities make sure their policies, and the ways they carry out their functions, do what they are intended to do and for everybody.<sup>32</sup>

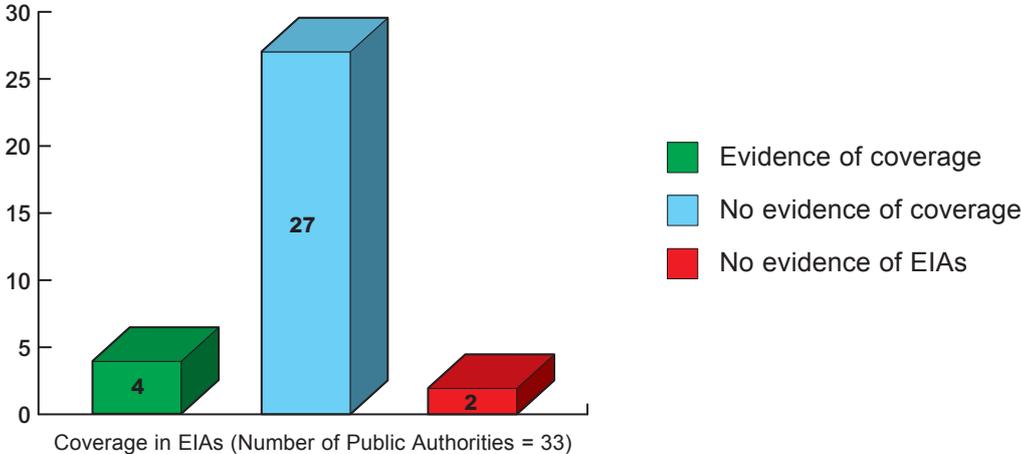
Equality impact assessments help public authorities ensure that they have considered the implications of what they do for different communities and groups and enable them to demonstrate that they have had 'due regard' to the General Duty, in this instance of the Race Equality Duty.

The thirty-three authorities' websites were reviewed to determine how many had included explicit references to refugee and migrant communities in equality impact assessments of relevant policies. The expectation was firstly, that local authorities were routinely assessing the impact of their policies and practices for different communities and that these assessments included a consideration of refugees and migrants; and secondly, that equality impact assessments or summaries thereof would be published alongside relevant policies.

---

<sup>32</sup> Equality and Human Rights Commission (2010) *Equality impact assessment quick-start guide: A step-by-step guide to integrating equality impact assessment into policymaking and review*. London: EHRC

Figure 2 outlines the findings in respect of coverage.



**Figure 2: Evidence that refugee and migrant communities had been included in relevant equality impact assessments**

Of the thirty-three authorities, only four had publicly available equality impact assessments which included specific references to refugee and migrant communities.

These four authorities had completed a series of equality impact assessments and published examples which included a consideration of refugee and migrant communities. For example, one authority included coverage of refugees and migrants in terms of service take-up. It identified a potentially adverse impact of some policies on racial groups because of factors such as language difficulties or eligibility due to residency criteria. These gaps were then individually addressed in the accompanying equality impact assessment action plan.

However, even in relation to these four authorities there remained gaps in individual services areas which were clearly relevant to refugees and migrants. For example, an authority which included good coverage in respect of housing, customer services, education and social care, failed to consider the needs of these communities with regard to community safety.

The websites of the remaining twenty-nine authorities provided no indication that they had included a consideration of refugee and migrant communities in any of the equality impact assessments that they had published. In the case of two authorities there was no evidence that they had published any equality impact assessments in the preceding five years and in a further four cases, the equality impact assessments which they had published were more than two years old.

While it is not possible to make any definitive statements about the overall performance of the authorities concerned, these findings suggest the following:

1. A significant number did not appear to be routinely publishing equality impact assessments, suggesting that they were not routinely assessing the impact of proposed policies and services.
2. Few equality impact assessments explicitly referred to refugees and migrants, suggesting that there was no systematic consideration of the impact of policies and services on these groups.

More positively, there were examples of local authorities underlining the need for staff to consider the needs of refugee and migrant communities as part of the impact assessment guidance. One authority's equality impact assessment toolkit included a prompt to remind staff that new migrants, including refugees and asylum seekers, tend to be overlooked in consultations. Another pointed out the need to address all the discrimination grounds but added that the experiences of Gypsies and Travellers, refugees and asylum seekers and those on low income should also be considered. A third authority's toolkit asked whether data should be supplemented by additional work to fill gaps in information about groups such as 'newcomers', including asylum seekers and refugees. However, these examples were the exception rather than the rule.

## **What this means for the new Equality Duty?**

For the four local authorities who have a record of considering refugee and migrant communities as part of their assessments of impact the position is clear – they simply need to replicate what they are already doing across all relevant service areas. For the remaining authorities, the new Equality Duty represents an opportunity to rethink their approach to the assessment of the impact of what they do in the context of the new General Duty.

As noted above, the new Duty does not prescribe a set methodology in the same way at the Race Duty, but rather leaves it to individual authorities to determine how best to ensure 'due regard' in relation to the new General Duty. However, the Government Equalities Office has made clear that public authorities will have to consider the impact of their policies and services in order to have 'due regard' to the General Duty. This is reinforced by the fact that existing case law continues to be relevant in the context of the new Duty and the courts have clearly set out what they expect in terms of assessments of impact.<sup>33</sup>

---

<sup>33</sup> Equality and Human Rights Commission, *Relevant Case Law* (Web-based guidance); Patel, R. (2009) 'Case Law and the Public Sector Equality Duty', *Labour and European Law Review* 127. London: Thompsons; Casserley, C. (2009) 'The Disability Equality Duty. Recent Legal Cases'. Presentation to Disability Equality Duty Conference; The Hon Mr Justice Sales (2010) 'The Public Sector Equality Duty: A Lecture for ELBA and ALBA'.

The findings of this research indicate that a significant number of authorities either failed or struggled to routinely assess the impact of their policies under the previous Race Equality Duty. They support the need for clearer guidance and advice from the Equality and Human Rights Commission and other strategic bodies regarding the inclusion of refugee and migrant communities in assessments of impact

As a footnote, the review also identified some confusion and a lack of consistency relating to different definitions of the term 'migrant'. One authority understood 'new migrant' to mean people who had 'migrated to Britain within the last five years', Another used the labels 'immigrant' and 'BME' interchangeably, and one used migrant to denote 'a person with a different usual address at the time of the Census compared to that of one year before.' The latter effectively includes people who are simply mobile within London and the wider UK.

There was also a widespread misunderstanding of the rules relating to immigration, immigration status and related entitlements, and of different categories of migrant. Greater clarity and guidance here would aid public authorities considerably.

## **Activities not directly related to the Duty**

Whilst the bulk of authorities had not substantially incorporated refugees and migrants into their Duty focused work, there was the possibility that these authorities were undertaking wider work with these groups without making an explicit connection with the Race Equality Duty.

A small-scale review of web-based material identified examples of refugee and migrant focused practice, however the bulk of this activity was limited to those authorities which had included refugees and migrants into their Race Equality Duty focused activities. Examples of such practice include:

- Recruiting health trainers from refugee communities to support smoking cessation work.
- Explicitly including a consideration of refugee health needs in a joint health and social care commissioning strategy.
- Including a strong migrant and refugee health dimension in a borough-wide Mental Health Needs Assessment.
- Setting aside a specific seat on the local strategic partnership for refugee communities.
- Providing culturally appropriate domestic violence services for refugee and migrant women.

In respect of the bulk of the authorities, examples of refugee and migrant practice were limited to a small number of areas. Most frequently, these were funding a refugee and migrant voluntary sector organisation or funding a relevant community festival. Rarely did these initiatives extend to mainstream service delivery.

There is one area in which significant levels of activity were noted: in respect of Violence Against Women (VAW) services. Even amongst those authorities which did not have a current equality scheme and/or had not included refugees and migrants in assessments, there was evidence of activity in this area. For example, one authority which did not have a scheme, noted on its website the delivery of a borough-wide Domestic Violence Training Strategy which included ‘targeted and multi agency training’ with local refugee organisations to train community interpreters.

It is likely that a combination of the initiatives undertaken by the End Violence Against Women Coalition (EVAW) under the auspices of the Gender Equality Duty and the Equality and Human Rights Commission’s legal activity associated with the ‘Map of Gaps’ project may have focused the minds of a number of local authorities and prompted positive action in this area.<sup>34</sup>

Such examples appear to be the exception than the rule, yet they demonstrate the powerful way in which the Equality Duty (in this case the Gender Equality Duty) can be harnessed to help authorities to focus on and address discrimination.

---

<sup>34</sup> Equality and Human Rights Commission and End Violence Against Women coalition (2009) *Map of Gaps 2. The postcode lottery of Violence Against Women support services in Britain*. London: EHRC.

## 5.0 A focus on three authorities

Having identified that only a limited number of the local authorities in London had incorporated refugee and migrant communities as part of their work under the Race Equality Duty, the aim of this second stage of the project was to explore in greater depth the relationship between the Race Equality Duty and wider measures by local authorities to address the needs of refugee and migrant communities.

The focus here is on three public authorities: a London borough, a non-London borough and a strategic body. The three authorities were chosen for the following reasons:

1. Evidence that the organisation had incorporated a consideration of refugee and migrants in its Race Equality Duty work.
2. Evidence of a range of measures addressed to meet the needs of refugees and migrants.
3. For comparative purposes, the fact that each adopted a different approach to its work with refugee and migrant communities.

It should be noted that the material in this section does not represent an independent evaluation of the activities of these organisations or their impact. Our aim is not to endorse any of these approaches but to offer them as food for thought to public bodies in structuring their work to meet the needs of refugees and migrants.

### **Approach number one: London borough**

This London borough has a long history of providing a home to a range of refugee and migrant communities. It is an ethnically diverse borough which has experienced repeated waves of migration over the last two centuries.

The authority has sought to mainstream work with refugee and migrant communities by establishing a single team which focuses on equality, refugee and migrant communities, with the aim of ensuring that refugee and migrant communities remain a focus of the authority's work in respect of equality and specifically of its work in relation to the Equality Duties.

The authority has taken as its starting point the need to develop a detailed picture of the refugee and migrant communities in the borough. It has sought to improve data collection, develop comprehensive service monitoring and to build up a picture of needs across different service delivery areas. At the most basic level it has been able to discern that between 5-10% of the local population are from refugee and/or migrant communities, with analysis of schools based data suggesting the in-school population may be as high as 25%.

Given sensitivities regarding immigration status and potential problems of classification, the authority has often relied on proxy data from schools and local health services in

order to address the longstanding shortcomings in demographic data relating to refugee and migrant communities. For example, data from local schools has been utilised to estimate the likely size of the local refugee and migrant population.

The authority used both primary and proxy data as the basis for its Refugee and Migration strategy in 2008. This set out how the authority ‘would work, interact and support local refugee and migrant communities through core council services.’ A subsequent evaluation of that original strategy was then used to shape its future work. It was suggested that this enabled the authority to ‘understand where it has been most successful to date, but also to identify where it still needs to improve’. The intention was that ‘new strategies build on the lessons learnt previously and foundations are built upon’ in place of ‘uncoordinated, ad hoc approaches’.

This borough has already adopted a multi-strand approach to equality. In addition to focusing on the three equality Duties for race, disability and gender, it has extended the same approach to sexual orientation, religion or belief and age. It has chosen to separate out the needs of refugees and migrants from other groups covered by the Race Equality Duty. To this end it has developed specific actions in relation to each discrimination ground, including refugees and migrants. These actions relate to individual service delivery departments across the authority.

The authority has established its equality, refugee and migrants team in order to help identify and ‘shine a light on’ problems and ‘encourage colleagues to identify solutions’. It was found to be easier to encourage service delivery departments to focus on the key problems and search for solutions, rather than starting with the notion that ‘you need to do this because it is a legal requirement.’ This could mean allowing policy developers ‘the space to find solutions’, rather than explicitly focussing on the Duties. The goal was to provide ‘support which ensures that refugees and migrants can integrate into local society and access key services’.

An important question is whether the authority’s work has been prompted by the existence of the Race Equality Duty, or whether it would have emerged regardless of legislative prompting. It was suggested that the focus on refugee and migrant communities within the borough would have happened anyway – responses to refugee and migrant communities have emerged and evolved over a prolonged period. However, it was argued that the Duty sometimes focused the minds of those ‘who might otherwise overlook the needs of refugees and migrants’. It was noted that ‘it is always useful to be able to say “by the way it is a legal requirement” to those who are initially reluctant to act’.

It was felt that leadership from senior managers had enabled work in relation to refugees and migrants to evolve and had strengthened strategic approaches. The support of elected councillors and at cabinet level from successive administrations was identified as vital in ‘creating the political climate in which the borough has been able to develop its focus on refugee and migrant communities’. Not least, this support ensured a sense of continuity, with individual policy and service responses being allowed to develop over a period of time.

An important factor in the mainstreaming of work with refugee and migrant communities was the desire to develop sustainable partnership working. The borough has sought to work with key partners to improve local understanding and services to refugees and migrants. This includes work with statutory sector partners such as Job Centre Plus, local hospital trusts and local housing associations, as well as with a range of organisations in the voluntary and community sector, including those which directly work with and represent refugee and migrant communities.

The authority has sought to use a range of forums and settings to identify and reach out to refugee and migrant communities. These include local BME forums, multi-faith networks, places of worship and local colleges. This multi-layered approach has helped to reach different communities.

It was argued that the authority had anticipated the advent of the new public sector Equality Duty by adopting a cross-cutting approach to equality over recent years. This has led it to work with local disability organisations to improve the focus on the needs of disabled refugees and migrants, whilst simultaneously working with refugee and migrant organisations to ensure that they are addressing the needs of those clients with disabilities. Similarly, it has worked to focus on hidden needs such as those relating to lesbian, gay and bisexual individuals within some refugee and migrant communities. It was hoped that the introduction of the new Duty would support such approaches.

In terms of the workability of the new Duty, it was felt that the focus on actions rather than schemes 'could work'. It should lead to the routine prioritisation of local needs and encourage authorities to collect detailed data. However, concern was also expressed that for some authorities the extension of the Duty would mean that 'refugees might fall off the agenda'.

This authority is still considering how it will approach the new Specific Duties. There was a sense that we 'need to be clear about what the duties can do', with the suggestion that guidance on which groups are covered by the new Equality Duty and what this means in practice would be welcome.

## **Approach number two: Non-London local authority**

In order to coordinate work with refugee and migrant communities, this authority designated a specific post which is based within one of the authority's core service delivery departments but which has a strategic remit to 'roam' across the organisation and help shape policy and service responses. The emphasis is on 'shaping and influencing policy and service delivery focused and not on individual casework'.

This core role grew out of the organisation's longstanding experience of providing services for refugee and migrant communities, which began in the late 1990s with a focus on the needs of asylum seekers, but has since evolved into a more general refugee and migrant remit.

The post performs a number of important functions, but at its core is a brokerage role, with the postholder essentially forming a bridge between the authority and refugee and migrant communities. To support this work, the authority hosts a Refugee and Migrant Forum, which seeks to both represent relevant communities, and also provide an interface between different communities and those who deliver key public services. A practical example of this relationship in action is that 'the housing department will come and present its latest housing strategy', with members of the Forum providing 'critical friend' feedback on the likely impact of the proposals for refugee and migrant communities.

In addition, the postholder has also provided lower level support to the refugee and migrant voluntary sector such as training, advice and signposting to key services. A key challenge has been the 'lack of capacity [of the sector] to participate at the right levels'. The role of the post is to both support and 'capacity develop' local representatives.

The interviewee suggested the authority's overarching approach could be summed up as mainstreaming work with refugee and migrant communities into core service delivery, for example, ensuring that the 'post 16 service' includes team members with expertise in working with asylum seekers and refugees.

An explicit link has been made between those working on refugee and migrant issues and corporate strategies and working groups. It was argued that one can see evidence of this approach in key service delivery areas such as housing, education and community safety. For example, the authority's 'sex workers steering group' has adopted a focus on trafficking and the vulnerability of members of some refugee and migrant communities.

The refugees and migrants post is located within a service delivery department; however intrinsic to the role is the need to maintain a strong working relationship with the authority's core equalities team. This has included regular contact and involvement in the development of organisational initiatives such as the Race Equality Scheme, in order to provide 'input in terms of refugee and migrant communities'. However, there has been no expectation that the post holder would get involved in or critique individual equality impact assessments developed by colleagues.

The authority's approach has been 'firmly cross-equality'. This has led to work with local disability organisations in relation to disabled refugees and migrants and with migrant and refugee organisation to expand their understanding of disability. Similar work has been undertaken in respect of other equality grounds.

In common with the other interviewees, the postholder outlined the view that refugee and migrant communities were not explicitly covered by the Race Equality Duty. This was subsequently qualified as 'refugees are not a strand in their own right'. Despite this, the authority had chosen to 'widen its focus to such groups'. When asked when and why this inclusion had occurred, it was simply noted:

It has been in there for a long time... Refugees and migrant's unique position and needs have been recognised by the city.

The perception that refugees and migrants are 'not a recognised ground' has meant that it was sometimes 'a challenge' to persuade individuals to champion the cause of refugees and migrants. However, on the positive side, this sometimes meant work with refugees and migrants had a slightly lower profile making it 'easier to get things done'.

The interviewee was clear that this commitment to refugees and migrants had preceded the introduction of the Race Equality Duty, rather than having emerged as a result of the regulatory requirements of the Duty.

The authority is in the process of preparing its responses to the new Equality Duty; however there was a concern that impact assessments were no longer going to be required under the new Duty.

### **Approach number three: A strategic body – the Greater London Authority**

The Greater London Authority (GLA) is the strategic body with responsibility for key aspects of public service delivery across London and coordination. Its three main areas of responsibility are:

- economic development and wealth creation
- social development
- environmental improvement.<sup>35</sup>

The GLA has decided to combine its work on refugee and migrants and the wider equalities agenda in the same team. Within this structure it seeks to mainstream activity, with those leading on both equalities and refugees and migrants 'dependent on service focused teams to ensure implementation'.

In terms of its work with refugee and migrant communities, the authority is mindful of the diversity of such communities. It is aware that London has many migrant communities which do not need immediate support, due to their relative wealth. Its primary focus is on those communities with the most acute needs and those who are 'newly arrived', primarily within the last five years:

A number of migrant communities arrive and settle in London without any issues and it is important that we concentrate on those communities which need support to settle and integrate into local society.

The authority has sought to base its work on the collection of sound data and wider evidence regarding the demographics and experiences of refugee and migrant communities in London. Its Race Equality Scheme included an analysis of the position, experiences and needs of refugee and migrant communities, with the relevant action plan outlining what it would do to address these needs.

---

<sup>35</sup> <http://www.london.gov.uk/who-runs-london/greater-london-authority/about-gla>.

In 2009, the GLA published a major strategy 'London Enriched', setting out a vision which sees:

refugees living in security and dignity, sharing with all Londoners the same chances for a decent quality of life and the opportunity to contribute to London and its development.

The strategy's implementation plan sets out a series of discrete tasks and projected outcomes in respect of:

- Language
- Housing
- Employment and skills
- Community safety
- Children and young people
- Community development and participation<sup>36</sup>

The strategy includes an identification of the need to enhance the available evidence base in order to underpin future work with refugee and migrant communities.

A year previously, the organisation restructured its equalities focused activities and combined its work on the Equality Duties and with refugee and migrant communities within the same team and under the same management structure. However, whilst individuals within the refugee and migrant team provide advice, guidance and support to colleagues on questions such as equality impact assessments, overall responsibility remains with policy developers and service deliverers. A key responsibility is to raise issues which affect refugees and migrants and ensure that these are taken into account in the development of relevant policy and practice.

As before, it was argued that refugees and migrants were not specifically covered by the Race Equality Duty and therefore they had 'no particular significance under the law'. In spite of this legal interpretation, the organisation has prioritised this area of work, driven by the evident needs of a number of different refugee and migrant groups. Its emphasis is on the notion of 'vulnerability as a migrant' and the needs which flow from this. The GLA's stated approach is that the needs of refugees and migrants should also be considered in respect of their gender, ethnicity, age, disability and sexual orientation.

The organisation has tried to routinely equality impact assess relevant policies and services, however it was acknowledged that this is complicated in relation to groups that are 'not covered by law'. In terms of monitoring and guidance it was recognised that systematic monitoring is a 'bit of a challenge'. Refugees and migrants are generally not included in relevant datasets. Data analysis is often reliant upon aggregated data,

---

<sup>36</sup> Greater London Authority (2009) *London Enriched*. London: GLA.

which limits the capacity to plot the experiences of individual communities. In the first instance this has led to the use of proxies, such as the languages spoken by individuals to estimate the size of communities and impact of services. Better mapping of local authority refugee and migrant communities was felt to be required.

In light of this, the GLA helped a number of organisations to encourage different refugee and migrant communities to participate in the March 2011 Census, seeing such participation as vital in improving data collection. High response rates should also help the London boroughs in question to secure funding to meet the needs of their communities.

The importance of leadership was once again stressed. Successive mayoral administrations have emphasised their commitment to a sustained focus on improving the lives of refugee and migrant communities. This has enabled a continued focus on this work.

## **Conclusions**

The three case study authorities have adopted very different organisational approaches in order to organise and prioritise their work with refugee and migrant communities. These three approaches can be broadly summarised as:

- A unified approach to equality, and refugee and migrant focused work, with a single team providing support, advice, guidance and co-ordination across all equality grounds.
- An approach which is built around the focal point of a named postholder who is charged with establishing a bridge between service delivery colleagues and refugee communities.
- A twin approach in which essentially separate equality, and refugee and migrant teams work alongside each and operate under a single management structure.

Despite the differences, there are a number of common threads, including:

- An organisational prioritisation of refugees and migrants, alongside other disadvantaged communities.
- A strategic approach which seeks to ensure consistency across all parts of the organisation.
- Ownership by named teams and officers.
- Leadership from the highest management and political levels.
- Designation of a strategic, corporate role in which the relevant teams have licence to roam across the authority.
- A remit to build links between refugee and migrant organisations and different parts of the authority.

It would appear clear that in each case, the prioritisation of refugee and migrants has primarily been based on evidence of need, rather than driven by the existence of the Race Equality Duty. However, the Race Equality Duty has also proved to be a useful tool to strengthen the focus on the needs of these communities.

Finally, what was most apparent was that the authorities concerned had found a way of working which was at least partially effective for that organisation and its communities.

## 6.0 The new Equality Duty and refugee and migrant communities

### The new Equality Duty

The new Equality Duty is designed to reduce bureaucracy while ensuring public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all.<sup>37</sup>

The introduction of the new Equality Duty in April 2011 as part of the Equality Act 2010 provides public authorities with a fresh opportunity to build an active focus on refugee and migrant communities into relevant aspects of their work. In the Government's words, 'the Equality Duty ensures that public bodies consider the needs of all individuals in their day to day work'.<sup>38</sup>

This section focuses on how public authorities can ensure that they meet the legal requirements of the Equality Duty in respect of refugee and migrant communities and so take action to improve the life chances of these groups.

It begins by outlining what the new Duty requires and what it means for public authorities. The General Duty embodies the focus and purpose of the Duty. The General Duty requires that those subject to the Equality Duty must have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The new Equality Duty strengthens the expectations which are placed on public authorities. While it clearly builds on the foundations provided by the Race, Disability and Gender Equality Duties, it shifts the emphasis in a number of important ways.

Firstly, the new Duty extends coverage to a larger number of equality grounds. This means that public authorities must now consider the implications of what they do in terms of:

- Race (this includes ethnic or national origins, colour or nationality<sup>39</sup>)
- Disability

---

<sup>37</sup> Government Equalities Office (2011) *Equality Act 2010: public sector Equality Duty. What do I need to know? A quick start guide for public sector organisations*. London: GEO.

<sup>38</sup> Government Equalities Office (2011) *Equality Act 2010: public sector Equality Duty. What do I need to know? A quick start guide for public sector organisations*. London: GEO.

<sup>39</sup> Government Equalities Office (2011) *Equality Act 2010: public sector Equality Duty. What do I need to know? A quick start guide for public sector organisations*. London: GEO.

- Gender
- Gender reassignment
- Pregnancy and maternity
- Religion or belief
- Sexual Orientation
- Age (limitations)

This has two practical implications for public authorities. Public authorities must consider the implications for each of these areas in their own right. More importantly, it requires that public authorities consider the cross-cutting implications of what they do. This means that when considering the needs of different ethnic communities, including refugees and migrants, they should consider the specific impact for groups such as refugee and migrant women, older, disabled, lesbian, gay and bisexual refugees and migrants. This should enable them to develop services which meet the needs of all local people more effectively.

Secondly, the new Duty reaffirms the primacy of the General Duty in the minds of both public authorities and regulatory bodies and seeks to shift the balance between the General and Specific Duties. One of the criticisms of the previous Equality Duties was that, to differing degrees, they tended to encourage public authorities to focus on processes rather than outcomes. It was suggested that, in some cases, the goal became producing an ambitious equality scheme at the expense of achieving real change by focusing on implementing the elements of the relevant General Duty. At the time of writing, details of the new Specific Duties were under review, however the review paper makes clear the overarching approach is to reduce what are seen as regulatory burdens, increase transparency and improve accountability through the General Duty, confirming that:

Under the requirements of the general duty to have ‘due regard’ to the matters set out in the Act, public bodies will need to understand the effect of their policies and practices on equality – this will involve looking at evidence, engaging with people, staff, service users and others and considering the effect of what they do on the whole community.<sup>40</sup>

Thirdly, the new Duty shifts the emphasis towards action in place of the previous Duties’ emphasis on softer requirements. At its simplest level, the previous focus on promoting equality of opportunity and good relations is replaced with the more action-orientated requirements to ‘advance’ and ‘foster’. This underlines the need for public authorities to take action and attempt to make a difference. The emphasis is on improving outcomes for different groups and communities, whether through actions intended to eliminate discrimination or harassment or activities designed to foster better relations between different communities.

---

<sup>40</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy – Policy review paper*. London GEO, p.1.

Fourthly, the new Duty carries forward (and potentially strengthens) the ‘good relations’ element of the Race Equality Duty. This measure was often overlooked by public authorities in the past. However, given the levels of racism and hostility that refugees and migrants often experience (identified in Section 3), it is an important tool for authorities in breaking down barriers, shaping positive attitudes and promoting good relations between their different communities.

Finally, the new Duty places a greater emphasis on public authorities themselves determining how they can best meet the requirement of the Duty. It is less prescriptive than its predecessors, with less emphasis on following pre-determined processes which public authorities should adopt in order to demonstrate ‘compliance’. The emphasis is on improving outcomes for disadvantaged groups and individuals.

## **The Specific Duties**

The sole purpose of the Specific Duties is to help public authorities demonstrate how they have had ‘due regard’ to the three distinct elements of the General Duty. They represent steps that will enable public authorities to strengthen their focus on equality and ultimately have ‘due regard’ to the General Duty. Public authorities will ultimately be judged on their performance in respect of the General Duty, rather than any activities associated with the Specific Duties.

As noted above, the Government Equalities Office has attempted to shift the balance between the General and Specific Duties:

The approach the Government now wants to take on the specific duties turns this on its head – it means that public bodies will be held to account – through greater transparency and challenge from the public – for the equality improvements they deliver, not the processes they go through. This is what will ultimately deliver on the aims of the Equality Duty – to eliminate discrimination, advance equality of opportunity and foster good relations for public sector workers and service users, not to ensure that public bodies comply with bureaucratic processes.<sup>41</sup>

While many of the explicit requirements for involvement, consultation and assessment of equality impact have been removed from the draft Specific Duties, the Government Equalities Office has made clear that public authorities will still have to carry out such activities to demonstrate ‘due regard’ to the General Duty:

Under the requirements of the general duty to have ‘due regard’ to the matters set out in the Act, public bodies will need to understand the effect of their policies and practices on equality – this will involve looking at

---

<sup>41</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy – Policy review paper*. London GEO, p.2.

evidence, engaging with people, staff, service users and others and considering the effect of what they do on the whole community.<sup>42</sup>

This is supported by the weight of existing case law which is helpful in confirming, for example, the need to actively consider the impact of a proposed policy and to include external stakeholders in the decision making process.<sup>43</sup> Such case law will still be relevant in the context of the new Duty and should help authorities to build an appropriate assessment of impact into decision making processes.

In line with this new approach, the new Duty does not prescribe set processes by which public authorities must carry out specific tasks. Public authorities will no longer be required to publish equality schemes in order to set out 'arrangements' for meeting the General Duty or to adopt a particular methodology in order to assess the impact of their policies. Rather the approach is to let individual public authorities decide how best to have 'due regard' to the General Duty.

The revised draft regulations (March 2011) require public bodies to:

- publish equality objectives every four years;
- publish information annually to demonstrate their compliance with the general Equality Duty;
- in particular publish information relating to their employees (for bodies with 150 or more staff) and others affected by their policies and practices (such as service users).<sup>44</sup>

It is vital that when considering the Specific Duties, public authorities keep returning to the three elements of the General Duty – eliminating discrimination and harassment, advancing equality of opportunity and fostering good relations. The underlying question is always: how will the actions that an organisation takes enable it to deliver on one or more of these elements?

For the purposes of this project, the questions might be: how will these specific actions address health inequalities for particular refugee and migrant communities? How will they deal with the disproportionate number of incidents of harassment experienced by refugee communities in an individual area? Will they help to reduce tensions between new and emerging communities and more established groups on

---

<sup>42</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy – Policy review paper*. London GEO, p.5.

<sup>43</sup> Equality and Human Rights Commission, *Relevant Case Law* (Web-based guidance); Patel, R. (2009) 'Case Law and the Public Sector Equality Duty', *Labour and European Law Review* 127. London: Thompsons; Casserley, C. (2009) 'The Disability Equality Duty. Recent Legal Cases'. Presentation to Disability Equality Duty Conference; The Hon Mr Justice Sales (2010) 'The Public Sector Equality Duty: A Lecture for ELBA and ALBA'.

<sup>44</sup> Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy – Policy review paper*. London GEO, p.2.

a local housing estate? At each stage the emphasis should always be on impact and outcome, rather than processes.

## **Refugee and migrant communities: Focusing on the General Duty to make a difference**

Public authorities need to be confident that they are addressing the needs of refugee and migrant communities in the way they set out to meet the General Duty. To do so, they will need to think about how they collect data relating to refugee and migrant communities, in light of the sensitivities associated with such activities. They will want to consider how they consult and engage with refugee and migrant communities and how they consider such groups in terms of any assessments of impact and on-going monitoring to demonstrate 'due regard' to the General Duty. Such actions will help inform the equality objectives that individual authorities need to set out. The findings of this research suggest that many public authorities may need additional guidance to help them incorporate refugee and migrant needs into their activities under the new Duty.

However, our research shows that a number of public authorities have already gone beyond the legal requirements of the three previous Equality Duties. This has enabled them to focus on the experiences of particular groups within refugee and migrant communities, for example, developing employment and training initiatives for young refugees, or links between refugee and migrant community organisations and those representing lesbian, gay and bisexual people locally. The new Duty should enhance this kind of cross-cutting work, improve the way services are joined up and lead to greater responsiveness across a range of public services.

The remainder of this section highlights a series of practical examples of actions which local authorities are or could be taking to strengthen their focus on refugee and migrant communities. These suggestions do not require major new programmes or significant additional expenditure. In most instances they simply require minor adaptations to existing arrangements.

In setting out the following steps which local authorities can take, we have been conscious of the need to include refugees and migrants in the delivery of core services, such as education, housing, social services and regeneration. All too often, the measures we identified in our research were limited to areas such as the provision of advice and community festivals. Here we have sought to identify examples of engagement with refugee and migrant communities across the full range of public services.

The examples are divided into two categories. The first represent the type of preparatory measures which will ultimately enable public authorities to measure the impact of their actions to address the needs of refugees and migrants. The second are ways in which public authorities might demonstrate 'due regard' to the General Duty, with the emphasis on taking action that will improve outcomes.

## Preparing the ground

Potential practical steps which could ultimately help public authorities to demonstrate 'due regard' to the General Duty might include:

- Including refugee and migrant communities in the authority's equalities strategy.
- Ensuring that existing equalities training includes a refugee and migrant component.
- Ensuring that existing training for policy makers includes an assessment of impact component as well as a refugee and migrant dimension.
- Establishing a senior level 'champion' amongst existing staff for refugee and migrant communities.
- Designating a post from within existing staff with responsibility for brokering working relationships between refugee and migrant communities and policy developers and decision makers.
- Including a refugee and migrant communities component in any relevant data audits and needs assessments.
- Working with local refugee and migrant communities and representative organisations to develop data collection systems which reflect the sensitivities of collecting data relating to immigration status.
- Collaborating with other local public authorities to share good practice on working with refugee and migrant communities.
- Targeting refugee and migrant organisations to ensure that they participate in relevant consultations and become members of local steering groups for public health initiatives.
- Strengthening links with local voluntary sector organisations to ensure community intelligence and contacts are up to date.
- Incorporating refugee and migrant communities into existing outreach and community development activities.
- Providing capacity building in the form of information, training and other support to refugee and migrant community organisations.

Once such preparatory work has been undertaken, authorities will be ready to identify the proactive steps that they can take in order to show 'due regard' and address the needs of their communities. The following 'real' examples have been collated as part of the project. To help public authorities understand the type of activities that they could undertake to address the individual elements of the General Duty, the examples are listed under three headings. The emphasis here is on taking action and making a difference.

## **Advancing Equality of Opportunity**

- Using existing local Children's Centres and primary schools to target and provide language and literacy support in order to increase take-up by refugee and migrant communities.
- Developing a refugee and migrant dimension in DVD resources targeting new school starters.
- Working with partners in Further Education to develop ESOL provision which includes a 'knowledge of local democracy' component to encourage participation.
- Adapting ESOL courses to include employment focused skills.
- Targeting recruitment amongst refugee and migrant communities for apprenticeships and paid internships.
- Promoting road traffic awareness sessions with children from refugee and migrant communities to reduce road traffic accidents.
- Using existing business support approaches to encourage entrepreneurial activity amongst refugee and migrant communities.
- Encouraging 'buddying' arrangements between organisations, in which longer established migrant communities support newer communities to navigate local decision making structures.

## **Eliminating Discrimination and Harassment**

- Ensuring consideration of cuts to funding local service provision includes an active consideration of the likely impact upon refugee and migrant communities.
- Working with staff from refugee and migrant backgrounds to develop the 'cultural competence' of relevant teams.
- Including refugee and migrant communities in organisational strategies for tackling hate crimes.
- Funding and/or providing culturally appropriate domestic violence services for refugee and migrant women.
- Working with local voluntary sector organisations to develop local empowerment group to work with members of refugee and migrants to support them to get involved and develop projects.

## **Advancing Good Relations**

- Developing youth services on a cross-community basis in order to promote cohesive local communities and help young refugees and migrants to integrate into local networks and groups.
- Producing and disseminating an asylum seeker and refugee 'myth-busting' leaflet.
- Including refugees and migrants on working groups for activities relating to Holocaust Memorial Day, International Women's Day, Gay Pride etc.

- Establishing a peer befriending scheme, where established students become 'buddies' to new students from migrant families.
- Producing a 'Welcome to the area' pack for new arrivals, with information about the locality, services and sources of support and advice.
- Ensuring refugees and migrants are represented and consulted in the development of local authority strategies on good relations and cohesion.
- Including a refugee and migrant community dimension in existing citizenship training which focuses on local organisations such as Tenants and Residents Associations and voluntary and community sector organisations.
- Ensuring recruitment to community wardens posts targets refugee and migrant communities and that any existing service training includes a focus on working with these communities.
- Ensuring that any local sports initiatives are based on the principle of 'mixed teams' in order to maximise the opportunity for interaction between refugees, migrants and other people within the local community.
- Incorporating refugee and migrant communities in local employment mentoring schemes in order to encourage interaction between people from different communities.

The above examples are intended to help public authorities to address the needs of refugee and migrant communities. These measures are realistic and achievable and have already been adopted by a number of authorities in England.

## 7.0 Conclusion and recommendations

The General Duty of the Race Equality Duty with its focus on equality of opportunity, elimination of discrimination and promotion of good race relations should have provided a good framework for supporting refugee and migrant communities. However, the review phase of the project found that many authorities had not made a direct link between the Race Equality Duty and the needs of their refugee and migrant communities, either through their Duty focused activities or wider work.

Subsequent exploration of the work of three authorities identified different approaches to meeting the needs of refugees and migrants, alongside the frequent perception that refugees and migrants were not explicitly covered by the previous Race Equality Duty, despite the often proactive work on refugees and migrants that these organisations had undertaken. If this perception was shared by other London authorities, it could help to explain why so few of the authorities had included refugee and migrant communities in their work under the Race Equality Duty. Confusion relating to the legal status may have led authorities to fail to make a connection between the Race Equality Duty and the needs of their refugee and migrant communities. If this hypothesis is correct it would explain the results of desk based review and indicate the need for significant action to ensure that this misinterpretation is addressed as part of the roll-out of the new Equality Duty.

To sum up, three main messages emerge from the review and practice phases of this project:

- Firstly, very few of the authorities reviewed had made a connection between refugee and migrant communities and the Race Equality Duty.
- Further, there was confusion regarding the specific legal status of refugee and migrant communities in respect of the Race Equality Duty.
- Finally, despite this, a number of authorities demonstrated that it was possible to focus on refugee and migrant communities as part of work relating to the Equality Duties – dispelling the notion that such a focus is too difficult or even impossible.

Each of these findings has implications for the introduction of the new Public Sector Equality Duty.

As we have argued throughout this report, it is clear that refugees and migrants were covered by the previous Race Equality Duty; it is equally clear that they are covered by the new Equality Duty. This view is supported by recent advice from the Equality and Human Rights Commission, which deals with the specific question of coverage of refugees and migrants under the new public sector Equality Duty. This states:

The application of the PSED [public sector Equality Duty] applies to asylum-seekers, refugees and those subject to immigration control save where an exception applies.<sup>45</sup>

It will be important that this message is clearly communicated as part of the roll-out of the new public sector Equality Duty.

The new public sector Equality Duty should afford a greater focus on the needs of refugee and migrant communities. The strengthening of the General Duty to ensure a sharper focus on taking action; the broadening of the Duty to a greater number of equality grounds; and the greater need for public authorities to demonstrate 'due regard' to the three distinct elements of the General Duty should all encourage more effective and outcome-focused measures to support refugees and migrants.

However, for this to happen there needs to be a clearer recognition of the connection between the disadvantage and discrimination experienced by refugees and migrants, equality measures and the Equality Duty. There also needs to be greater clarity about the legal status of refugee and migrant communities in regard to the public sector Equality Duty. We address these points in our recommendations.

The findings of this research project would suggest that the Race Equality Duty was something of a missed opportunity for refugees and migrant communities. The new Equality Duty is an opportunity to learn the lessons from the past by ensuring the Duty's potential is fully harnessed to secure real progress in advancing equality of opportunity, eliminating discrimination and harassment, and fostering good relations for all members of society, including refugees and migrants.

## **Recommendations**

1. To address poor coverage of refugee and migrants under the Equality Duty:
  - Public authorities should include refugee and migrant communities in the work they undertake to ensure 'due regard' to the new Equality Duty.
  - The Equality and Human Rights Commission, the Government Equalities Office and other relevant inspectorates and advisory bodies should develop guidance and briefings setting out how public authorities can best reflect the needs of refugees and migrants in the work they undertake in order to have 'due regard' to the three elements of the General Duty of the new Equality Duty,
2. To address considerable data and information gaps:
  - The Equality and Human Rights Commission should develop guidance for public authorities on how to collect appropriate information and data in respect

---

<sup>45</sup> Equality and Human Rights Commission (2011) 'The Equality Act 2011 and its application to asylum-seekers and refugees'. Legal opinion. EHRC.

of refugee and migrant communities. This should reflect the clear sensitivities which are associated with collecting data regarding immigration status.

3. To remove apparent confusion regarding the legal position of refugee and migrant communities in respect of the Equality Duty:
  - The Equality and Human Rights Commission should specifically clarify the legal position and provide clear messages regarding inclusion of refugee and migrant communities in relevant Equality Duty guidance.
4. To address previous poor coverage of refugee and migrants in assessments of impact under the previous Duty:
  - The Equality and Human Rights Commission and other strategic bodies should include refugee and migrant communities in any relevant advice and guidance to help authorities to assess the impact of what they do in order to have 'due regard' to the General Duty under the new Equality Duty and improve outcomes for these communities.

## Bibliography

Aspinall, P. & Watters, C. (2010) *Refugees and asylum seekers: A review from an equality and human rights perspective*. London: EHRC.

Audit Commission (2004) *Journey to Race Equality*. London: Audit Commission.

Casserley, C. (2009) 'The Disability Equality Duty. Recent Legal Cases'. Presentation to Disability Equality Duty Conference.

Centre for Maternal and Child Enquiries (2011) 'Saving Mothers' Lives: reviewing maternal deaths to make motherhood safer: 2006–08. The Eighth Report on Confidential Enquiries into Maternal Deaths in the United Kingdom'. Centre for Maternal and Child Enquiries (CMACE).

Centre for Maternal and Child Enquiries (2007) 'Saving Mothers' Lives: Reviewing Maternal Deaths to make Motherhood Safer: 2003-2005. The Seventh Report of the Confidential Enquiries into Maternal Deaths in the United Kingdom'. Centre for Maternal and Child Enquiries (CMACE).

Commission for Racial Equality (2002) *Statutory Code of Practice on the Duty to Promote Race Equality*. London: Commission for Racial Equality.

Equality and Human Rights Commission (2010) *The essential guide to the public sector equality duty*. London: EHRC. All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission (2010) *Not just another statistic. Life in Wales for asylum seekers and refugees*. Cardiff: EHRC. All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission (2010) *Using the equality duties to make fair financial decisions: A guide for decision-makers to assessing the equality impact of proposed changes*. London: EHRC. All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission (2010) *Equality impact assessment quick-start guide: A step-by-step guide to integrating equality impact assessment into policymaking and review*. London: EHRC. All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission (2010) *How fair is Britain? Equality, Human Rights and Good Relations in 2010*. London: EHRC. All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission (2011) 'The Equality Act 2011 and its application to asylum-seekers and refugees'. Legal opinion. EHRC.

Equality and Human Rights Commission, *Relevant Case Law* (Web-based guidance). All EHRC publications are available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality and Human Rights Commission and End Violence Against Women coalition (2009) *Map of Gaps 2. The postcode lottery of Violence Against Women support services in Britain*. London: EHRC. Available at [http://www.equalityhumanrights.com/uploaded\\_files/research/map\\_of\\_gaps2.pdf](http://www.equalityhumanrights.com/uploaded_files/research/map_of_gaps2.pdf)

Gidley, B. & Jayaweera, H. (2010) *An Evidence Base on Migration and Integration in London*. Oxford: COMPAS.

Government Equalities Office (2011) *Equality Act 2010: public sector Equality Duty. What do I need to know? A quick start guide for public sector organisations*. London: GEO. All Government Equalities Office publications are available at [www.equalities.gov.uk](http://www.equalities.gov.uk)

Government Equalities Office (2011) *Equality Act 2010: The public sector Equality Duty: reducing bureaucracy – Policy review paper*. London: GEO. All Government Equalities Office publications are available at [www.equalities.gov.uk](http://www.equalities.gov.uk)

Guardian (2011) 'Refugee services to take a heavy hit due to 62% funding cuts'. Available at <http://www.guardian.co.uk/world/2011/feb/01/refugee-services-heavy-hit-cuts>

Ipsos Mori (2007) *Immigration poll*. Available at <http://www.ipsos-mori.com/researchpublications/researcharchive/243/Immigration-Poll.aspx>

McCarvill, P. (2010) *Equality, Entitlements and Localism*. London: ippr. Available at <http://www.ippr.org/publicationsandreports/publication.asp?id=757>

McCarvill, P. (2010) 'Cutting Fairly Locally'. *Public Policy Research*, Volume 17, Issue 3, pages 135–140, September–November 2010.

Mind (2009) *A Civilised Society: Mental Health Provision for Refugees and Asylum-Seekers in England and Wales*. London: Mind. Available at [http://www.mind.org.uk/assets/0000/5695/refugee\\_report\\_2.pdf](http://www.mind.org.uk/assets/0000/5695/refugee_report_2.pdf)

Refugee Council (2010) 'The impact of the spending cuts on refugee community organisations'. London: Refugee Council. Available at <http://www.refugeecouncil.org.uk/policy/briefings/2010/impactofspendingcutsonrcos>

Rutter, J. with Cooley, L., Reynolds, S. and Sheldon, R. (2007) *From Refugee to Citizen: 'Standing On My Own Two Feet'. A research report on integration, 'Britishness' and citizenship*. ippr on behalf of Refugee Support.

Rutter, J. & Latorre, M. (2009) *Social housing allocation and immigrant communities*. London: EHRC.

Spencer, S. and Pobjoy, J. (2011) *The relationship between immigration status and rights in the UK: Exploring the rationale*. COMPAS Working Paper 11-86. Oxford: COMPAS. Available at <http://www.compas.ox.ac.uk/publications/working-papers/wp-11-86/>

The Hon Mr Justice Sales (2010) 'The Public Sector Equality Duty: A Lecture for ELBA and ALBA'. Available at <http://www.judiciary.gov.uk/media/speeches/2010/public-sector-equality-duty-mr-justice-sales-speech-13122010>



Published by the Equality and Diversity Forum in May 2011

**Equality and Diversity Forum**

Tavis House, 1-6 Tavistock Square, London WC1H 9NA

Tel: 44 (0) 20 303 31454, email: [info@edf.org.uk](mailto:info@edf.org.uk), website: [www.edf.org.uk](http://www.edf.org.uk)

The EDF is a registered charity (1135357) and company (6464749)