9 September 1975

CABINET

RACIAL DISCRIMINATION

Note by the Secretary of State for the Home Department

I attach, for the information of my colleagues, a copy of the White Paper on Racial Discrimination which is to be published on Thursday, 11 September 1975.

R J

Home Office
9 September 1975
Racial Discrimination
RACIAL DISCRIMINATION

INTRODUCTION

1. A decade has elapsed since the introduction of the first race relations statute in this country. The time has come to evaluate the working of the legislation. In carrying out this review, the Government has been greatly assisted by the information provided by the Race Relations Board, the Community Relations Commission, the Runnymede Trust, Political and Economic Planning, organisations within the minority communities, voluntary bodies dealing with different aspects of race and community relations, and individual experts.

2. The Government wishes to make a special acknowledgement to the Select Committee of the House of Commons on Race Relations and Immigration which has, since 1968, conducted a number of enquiries and produced a series of detailed reports and recommendations on some of the major aspects of race relations and immigration (education, employment, housing, police/immigrant relations, the problems of coloured school-leavers and the control of Commonwealth immigration). In particular, the most recent report of the Select Committee on the organisation of race relations administration, published on 21 July 1975, has made a number of important and far-reaching recommendations about the role of central and local government and related matters. The Government has taken note of those recommendations of the Select Committee which affect the proposals it is now putting forward. The Government will make a considered response to Parliament to these and the many other wider recommendations in the Report as soon as possible.

3. Immigration and race relations have been closely linked in the public mind in the past decade and a half. The source of much of the confusion and anxiety which has surrounded these questions is the absence in our nationality law of any clear and positive concept of citizenship. Largely for historical reasons derived from our imperial past, there is no coherent definition of who is and who is not a citizen of this country; and distinctions made in our citizenship laws have been employed for the quite different purpose of controlling immigration. One consequence has been the widespread if mistaken criticism of successive Governments both for being racially discriminatory in their immigration control policies and also for failing to exercise effective control over immigration. The Government is undertaking a comprehensive review of the law of citizenship. The aim is to reform our citizenship laws in such a way as to enable the control of future immigration to be seen to be effective, to be flexible and to be free from any racial discrimination. The hope is that it will then be possible to bring to an end the acrimony, controversy and uncertainty which have hampered our capacity as a society to deal with the problems of race relations.

4. Much has changed in the ten years since the introduction of the first statute on race relations, both in the character of race relations and in the general understanding of the issues and problems involved. Ten years ago this country was still receiving substantial numbers of immigrants from the new Commonwealth. In 1964, the year preceding the first Race Relations Act, nearly
53,000 people from the new Commonwealth entered this country for settlement, of whom over a quarter were holders of employment vouchers who were entitled to bring in their dependants for settlement. In 1974 22,000 people were admitted for settlement from these countries. The overwhelming majority of these were either United Kingdom passport holders—to whom we have a special commitment—or dependants of people already settled here. In the same year 2,200 holders of work permits were admitted (for temporary residence) from the new Commonwealth. Finally, and of great significance to the subject of this White Paper, the character of the coloured population resident in this country has changed dramatically over the decade. Ten years ago, less than a quarter of the coloured population had been born here: more than three out of every four coloured persons then were immigrants to this country, a substantial number of them fairly recent arrivals. About two out of every five of the coloured people in this country now were born here and the time is not far off when the majority of the coloured population will be British born. The Government's proposals are based on a clear recognition of the proposition that the overwhelming majority of the coloured population is here to stay, that a substantial and increasing proportion of that population belongs to this country, and that the time has come for a determined effort by Government, by industry and unions, and by ordinary men and women, to ensure fair and equal treatment for all our people, regardless of their race, colour, or national origins. Racial discrimination, and the remediable disadvantages experienced by sections of the community because of their colour or ethnic origins are not only morally unacceptable, not only individual injustices for which there must be remedies, but also a form of economic and social waste which we as a society cannot afford.

5. Immigrants from the coloured Commonwealth came to Britain in the first instance in search of work, and their settlement patterns reflect this fact. About two-thirds of all coloured immigrants live in the six major conurbations, the great majority of them in the two main centres of coloured settlement—Greater London and the West Midlands.

6. There is clear evidence that, within these major areas of settlement, an excessively high proportion of coloured people live in the relatively more deprived inner city areas. In other words, these areas of housing stress are disproportionately coloured.

7. The pattern of unemployment is not uniform over all coloured groups. The 1971 Census suggests that young West Indians suffer from unemployment with exceptional severity. There are indications that coloured women, although less likely to be at work than white women, are far more likely to be in full-time work when they do go out to work. They are more heavily concentrated in the lower socio-economic groups. The proportion of coloured women with dependent children who are working full time is much higher than that of white women, and far higher proportions work longer hours than do white women. Moreover, as the most recent Political and Economic Planning investigation of the Extent of Racial Discrimination has shown, despite the Race Relations Acts, substantial discrimination continues to occur at work. Political and Economic Planning estimated that a coloured unskilled worker has a one in two chance of being discriminated against when applying for a job, a coloured skilled worker a one in five chance, and a coloured white-collar worker a one in three chance.
8. The latest figures suggest that the housing conditions of the coloured population have hardly improved in the last ten or fifteen years. The proportion of them who live in overcrowded conditions or who are forced to share the basic amenities is higher than that for the population at large. Coloured people are grossly over-represented in the private furnished rented sector, where conditions are worst and insecurity greatest, and significantly under-represented in the council housing sector.

9. Not all the evidence is as grim and discouraging as the preceding paragraphs may suggest. Nearly half the coloured households own their houses—almost exactly the same proportion as white households. In Greater London, where concern has been expressed about the concentration of black workers in dirty and menial jobs, there is evidence that a substantial proportion of West Indians are in skilled manual employment. The proportion of young Asians out of work has been lower than that of young people in general. It is important not to lend credence to unrelieved pessimism and prophecies of doom, and particularly important not constantly to associate the coloured population with “problems”. It nonetheless remains the case that the condition of the coloured population in the mid-1970s gives cause for concern.

10. It was not unreasonable in the early 1960s to expect that many of the difficulties experienced by the coloured population stemmed from the fact that they were recent arrivals in this country and that, with the passage of time, greater familiarity on their part and greater acceptance on the part of the indigenous population, some at least of these difficulties would diminish or disappear. The emerging evidence suggests that that early optimism may not be justified, that the problems with which we have to deal if we are to see genuine equality of opportunity for the coloured youngsters born and educated in this country may be larger in scale and more complex than had been initially supposed.

11. The possibility has to be faced that there is at work in this country, as elsewhere in the world, the familiar cycle of cumulative disadvantage by which relatively low-paid or low-status jobs for the first generation of immigrants go hand in hand with poor and overcrowded living conditions and a depressed environment. If, for example, job opportunities, educational facilities, housing and environmental conditions are all poor, the next generation will grow up less well-equipped to deal with the difficulties facing them. The wheel then comes full circle, as the second generation find themselves trapped in poor jobs and poor housing. If, at each stage of this process, an element of racial discrimination enters in, then an entire group of people are launched on a vicious downward spiral of deprivation. They may share each of the disadvantages with some other deprived group in society; but few other groups in society display all their accumulated disadvantages.

12. The Government is bound to take that prospect seriously, although it cannot be said too often that there is not as yet sufficient evidence to demonstrate beyond argument that this is what is actually happening. It would clearly be irresponsible to wait for more conclusive evidence of deteriorating race relations and entrenched racial inequality. It is the Government's duty to prevent these morally unacceptable and socially divisive inequalities from hardening into entrenched patterns. It is inconceivable that Britain, in the last quarter of the
20th century, should confess herself unable to secure for a small minority of around a million and a half coloured citizens their full and equal rights as individual men and women.

13. The Government is convinced, as a result of its review of race relations generally and of the working of the legislation, that a fuller strategy to deal with racial disadvantage will have to be deployed than has been attempted so far. The complexity of the problem demands a commensurate degree of care in the approaches adopted. There still remain a set of problems which arise because we are dealing with newcomers. It is not to be assumed that these problems will disappear without residue simply with the passage of time, for some of the problems which coloured immigrants faced as immigrants, for example linguistic problems, have created handicaps for the second generation (West Indian as well as Asian) which will continue to require attention and resources for some time to come. Beyond the problems of cultural alien-ness, there are the problems of low status, of material and environmental deprivation which coloured immigrants and, increasingly, their children experience. To the extent that they share all or some of these problems with other groups in society, a general attack on deprivation will be relevant to their problems. But there may be a special dimension to their problems to the extent that the factor of racial discrimination multiplies and accentuates the disadvantages which are shared in part with others. Finally, the problems of racial disadvantage can be seen to occur typically in the context of an urban problem whose nature is only imperfectly understood. There is no modern industrial society which has not experienced a similar difficulty. None has so far succeeded in resolving it.

14. The review of race relations undertaken in the past year has convinced the Government that if urgent action is necessary, it is even more necessary to devise policies which are coherent rather than spectacular, to set targets which are relevant and realisable rather than dramatic. The gravity of the prospect demands action, but it places a premium on carefully considered action, consistently carried through. Nothing at this juncture could be worse than bold promises without the means of implementation.

15. The Government has a special responsibility as an employer. An unequivocal statement of the Government's equal opportunity policy has been made to all Departments covering all grades and positions in both the industrial and the non-industrial Civil Service. The policy states, with the full support of staff representatives, that there will be no discrimination against any person eligible under the nationality rules whether in recruitment, training or promotion or in any other way, on the grounds of colour, race, ethnic or national origins.

16. The responsibility for implementing the policy has been clearly laid on the Principal Establishment Officer of each Department. Personnel officers and line managers are responsible to their Principal Establishment Officer for ensuring that the policy is known to all staff.

17. Departments have been warned to be on their guard against any unconscious discrimination, including preconceptions and prejudices in such areas as the allocation of work and the assessment of managerial potential. They have also been advised that special training (for instance in communication and understanding the Civil Service system) may be desirable to enable staff to realise their full potential in the Civil Service.
18. While there is no evidence, either from complaints to the Race Relations Board or departmental managements, that the policy is not working satisfactorily, and no indication that ethnic minorities consider they are being discriminated against, the Government considers that a vital ingredient of an equal opportunities policy is a regular system of monitoring.

19. Since 1969 all Government contracts have contained a standard clause requiring contractors in the United Kingdom to conform to the provisions of the Race Relations Act 1968 relating to discrimination in employment and to take all reasonable steps to ensure that their employees and sub-contractors do the same.

20. It would be the intention of the Government when new legislation about racial discrimination is enacted to require a similar undertaking to comply with its provisions as a standard condition of Government contracts. The Government has considered whether its duty to take an active role to eliminate discrimination requires something additional. It would be an unacceptable burden to require all contractors to supply as a matter of form full particulars of their employment policies; but the Government cannot passively assume that a formal condition in a contract is all that is required. It is therefore intended that it should be a standard condition of Government contracts that the contractor will provide on request to the Department of Employment such information about its employment policies and practices as the Department may reasonably require.

21. It is apparent that good race relations require a coherent and co-ordinated policy over a large field involving many Government Departments, local authorities, the existing and future statutory bodies concerned with the subject and, indeed, many individuals in positions of responsibility or influence. In order to bring all these activities together more effectively the Government proposes to set up a Standing Advisory Council under the chairmanship of the Home Secretary to advise him on all aspects of the development and implementation of race relations policies. Membership would include Ministers of the other Government Departments concerned, the chairmen of the Community Relations Commission and the Race Relations Board (and subsequently the chairman of the proposed Race Relations Commission—see paragraph 49 below). The local authority associations, the Confederation of British Industry and the Trades Union Congress will be invited to take part, as will members of the minority communities.

22. The Government has decided that the first priority in fashioning a coherent and long-term strategy to deal with the interlocking problems of immigration, cultural differences, racial disadvantage and discrimination is to give more substantial effect to what it has already undertaken to do: to strengthen the law already on the statute book. This involves an examination of the institutions already in existence to consider what changes may be necessary to enable them to operate with greater effectiveness.

23. Legislation is the essential pre-condition for an effective policy to combat the problems experienced by the coloured minority groups and to promote equality of opportunity and treatment. It is a necessary pre-condition for dealing with explicit discriminatory actions or accumulated disadvantages. Where unfair discrimination is involved, the necessity of a legal remedy is
now generally accepted. To fail to provide a remedy against an injustice strikes at the rule of law. To abandon a whole group of people in society without legal redress against unfair discrimination is to leave them with no option but to find their own redress. It is no longer necessary to recite the immense damage, material as well as moral, which ensues when a minority loses faith in the capacity of social institutions to be impartial and fair.

24. The relevance of legislation to the less clear-cut, more complex situations of accumulated disadvantages and of the effects of past discrimination may be less direct but is nonetheless real. It is a characteristic of areas of deprivation that such resources as are available are unequally distributed. Merely to increase the scale of resources has, by itself, no effect on the unequal, and frequently inequitable, allocation of the increased resources. Indeed, such a policy may, by increasing the differentials, exacerbate the very problems it was intended to solve. An effective strategy to deal with the problems of deprivation and disadvantage must of necessity, therefore, attend both to the scale of resources required and to the equitable allocation of the increased resources. Racial disadvantage most often occurs in contexts of generalised disadvantage and cannot be realistically dealt with unless there are mechanisms for correcting the maldistribution of resources.

25. Legislation is capable of dealing not only with discriminatory acts but with patterns of discrimination, particularly with patterns which, because of the effects of past discrimination, may not any longer involve explicit acts of discrimination. Legislation, however, is not, and can never be, a sufficient condition for effective progress towards equality of opportunity. A wide range of administrative and voluntary measures are needed to give practical effect to the objectives of the law. But the legislative framework must be right. It must be comprehensive in its scope, and its enforcement provisions must not only be capable of providing redress for the victim of individual injustice but also of detecting and eliminating unfair discriminatory practices. The Government's first priority in the field of race relations must be to provide such a legislative framework. What is more, it is uniquely a responsibility which only the Government can discharge. At the same time Government fully recognises that this is only a part of the subject; that the policies and attitudes of central and local government are of critical importance in themselves and in their potential influence on the country as a whole.

26. The Government recognises that what is here proposed for a further attack on discrimination will need to be supplemented by a more comprehensive strategy for dealing with the related and at least equally important problem of disadvantage. Such a strategy has major public expenditure implications, including a reassessment of priorities within existing programmes. It cannot be settled in advance of the outcome of the current major public expenditure review. The Government does not, however, consider this an argument for deferring the preparation of longer-term policies or for delaying the publication and implementation of its anti-discrimination proposals.

27. The following sections of this White Paper describe the existing race relations legislation and the Government's proposals to make its scope more comprehensive and its enforcement more effective.
EXISTING LEGISLATION

28. The Race Relations Act 1965 made it unlawful to discriminate on racial grounds in specified places of public resort. It also contained provisions dealing with racial restrictions on the transfer of tenancies and penalising incitement to racial hatred. The 1965 Act created a Race Relations Board and a network of local conciliation committees which were to investigate complaints and attempt, where appropriate, to settle any difference between the parties and obtain a satisfactory assurance against any further unlawful discrimination. Where this process of conciliation was unsuccessful, the Attorney General (or, in Scotland, the Lord Advocate) had the sole right to determine whether to bring civil proceedings.

29. The Race Relations Act 1968 repealed and replaced the provisions of the 1965 Act dealing with discrimination in places of public resort. It extended the scope of the law so that it now applies to a wide range of situations in employment, housing, the provision of goods, facilities and services to the public, and the publication or display of discriminatory advertisements or notices. The 1968 Act also reconstituted the Race Relations Board, increasing both its membership and its functions. The Board and its nine regional conciliation committees have a duty to investigate all complaints of unlawful discrimination, except for (a) employment complaints, which must be dealt with, where appropriate, by suitable industrial machinery approved by the Secretary of State for Employment, and (b) complaints about dismissals on racial grounds, which are dealt with by industrial tribunals in the same way as unfair dismissals generally. The Board is also able to investigate a matter where it has reason to suspect that a person has been unlawfully discriminated against even though it has not received a complaint. Where the Board or a conciliation committee forms an opinion of unlawful discrimination, it attempts to secure a settlement and/or an appropriate assurance, as the case may be. Where the process of conciliation fails, the Board has the exclusive right to bring legal proceedings in which it may claim a declaration, damages on behalf of the victim of unlawful discrimination, and an injunction restraining any further unlawful conduct.

30. The 1968 Act also created the Community Relations Commission to complement the work of the Race Relations Board. The Commission’s task is to promote “harmonious community relations”, to co-ordinate national action to this end, and to advise the Home Secretary on any relevant matters. Its headquarters organisation includes administrative, information and specialist staff, and a “reference division” to inquire into matters referred to the Commission by the Home Secretary or which the Commission considers should be brought to his attention. The salaries of local community relations officers are paid by the Commission. The 85 local voluntary community relations councils, to which individual community relations officers are responsible, work more or less independently of the Commission. However, apart from financial support from the centre, the Commission offers a service of co-ordination of activities, and access to advice and information, through its Regional Development Officers. The Commission has limited funds to support locally based voluntary community projects. Its training section arranges a training programme for community relations officers and voluntary members of community relations councils.
31. It is not possible to provide a quantifiable measure of the practical impact of the 1968 Act. Generally, the law has had an important declaratory effect and has given support to those who do not wish to discriminate but who would otherwise feel compelled to do so by social pressure. It has also made crude, overt forms of racial discrimination much less common. Discriminatory advertisements and notices have virtually disappeared both from the press and from public advertisement boards. Discriminatory conditions have largely disappeared from the rules governing insurance and other financial matters, and they are being removed from tenancy agreements. It is less common for an employer to refuse to accept any coloured workers and there has been some movement of coloured workers into more desirable jobs.

32. The two statutory bodies—the Race Relations Board and the Community Relations Commission—have been valuable sources of information, advice and constructive criticism. The Board has sought to achieve the aims of the legislation not only by investigating individual cases involving alleged violations of the law but also by preventive work of an educational and advisory kind. The Commission has maintained direct liaison with the local community relations councils and with other voluntary groups and immigrant organisations throughout the country. It has attempted to identify the needs of racial minority groups and to propose how they should be met; to press the Government and other institutions to meet these needs; and to develop techniques for assessing the development of community relations.

33. The effort has been considerable and the achievements have been real. And yet, at the end of the decade, both statutory bodies have forcefully drawn attention to the inability of the legislation to deal with widespread patterns of discrimination, especially in employment and housing, a lack of confidence among minority groups in the effectiveness of the law, and a lack of credibility in the efficacy of the work of the Race Relations Board and the Community Relations Commission themselves. The continuing unequal status of Britain's racial minorities and the extent of the disadvantage from which they suffer provide ample evidence of the inadequacy of existing policies.

34. Within the limits of what can be accomplished by legislation the Board and the Commission have been hampered in their work by weaknesses which have become apparent over recent years in the legal framework within which they have had to operate.

35. One important weakness in the existing legislation is the narrowness of the definition of unlawful discrimination upon which it is based: the less favourable treatment of one person than of another on the ground of colour, race or ethnic or national origins. What matters under this definition is the reason or reasons for the discrimination. An unlawful motive may be inferred from the fact that a black person is treated less favourably than a white person; but, in the absence of a discriminatory motive, the present law does not cover practices and procedures which have a discriminatory effect upon members of a racial minority and which are not justifiable. While it is right that motive should be relevant in determining whether an alleged discriminator should compensate his victim, it is insufficient for the law to deal only with overt discrimination. It should also prohibit practices which are fair in a formal sense but discriminatory in their operation and effect. For example, employers and trade unions should be required to dismantle unjustifiable barriers to employment oppor-
tunities when the barriers operate to discriminate against racial minorities. Such barriers are against the public interest irrespective of motive and whether or not they operate against an identifiable individual victim.

36. The 1968 Act gives undue emphasis both to motive and to the identification of individual victims. Its enforcement depends excessively upon the making and processing of individual complaints. As the Race Relations Board has observed, complaints are random in their incidence and significance. Most victims do not complain. Many do not know that they have suffered discrimination. Others are reluctant to complain because they do not want to relive the humiliation which they have suffered, or because they have no confidence in the effectiveness of the complaints procedure and the redress which it is likely to provide for them. Some complaints are trivial; others are misconceived. Although it is necessary for the law to provide effective remedies for the individual victim, it is also essential that the application of the law should not depend upon the making of an individual complaint.

37. The role of the Race Relations Board has been circumscribed by the narrowness of the definition of unlawful discrimination and by the complaints-based system of enforcement embodied in the 1968 Act. It has been hampered by its obligation to investigate every complaint, and by its dependence upon receiving significant complaints, in pursuing the crucial strategic role of identifying and dealing with discriminatory practices and encouraging positive action to secure equal opportunity.

38. The strategic role of the Race Relations Board has also been restricted by the inadequacy of its powers to investigate and to deal with suspected discriminatory practices. It is unable to compel the attendance of witnesses, or the production of documents or other information for the purposes of an investigation. In the absence of such a power, the Board has to rely upon information provided by an individual complainant or other witnesses and the voluntary co-operation of those against whom complaints have been made. Moreover, where the Board forms an opinion of unlawful discrimination, its scope for action is confined to attempting to secure a settlement or satisfactory written assurance, through the process of conciliation, and, where conciliation fails, to bringing legal proceedings. It has no power to require unlawful discrimination to be brought to an end, and the discriminator has no obligation to satisfy the Board that he has altered his conduct so as to comply with the law. In these circumstances the Board may be placed in the invidious position of having to choose between accepting an inadequate settlement or an ambiguous assurance or trying to uncover further evidence in legal proceedings. To do the former would be to damage its credibility with both parties; to do the latter would be to risk criticism for abuse of legal process. In neither case is the Board well placed effectively to change a discriminatory practice or to encourage positive action to secure equal opportunity.

39. The individual complainant enjoys some definite advantages under the present system. He is entitled to have his complaint investigated by conciliation officers and committees possessing special skills and experience. In forming an opinion as to whether there has been unlawful discrimination, the Race Relations Board or conciliation committees do not require adherence to formal rules of evidence or procedure. They may form an opinion favourable to the
complainant on the basis of less weighty evidence than would be needed to establish a prima facie case in legal proceedings. Unless conciliation fails and the Board brings legal proceedings, the matter is dealt with without the possible embarrassment of publicity.

40. However, the requirement that all complaints should be investigated in this way may create resentment and hostility among those it is designed to assist. The process may seem cumbersome and protracted. The complainant may feel aggrieved at being denied the right to seek legal redress while his complaint is being processed. If his complaint is not upheld, he is likely to resent the fact that he is denied direct access to legal remedies. Even if it is upheld, he may feel aggrieved because, in his view, the Board or conciliation committee has accepted a settlement or assurance which he regards as inadequate; or, worse still, because after conciliation has failed, the Board has decided not to bring legal proceedings, whether because it considered that it had insufficient prospects of proving the case in court or for some other reason.

41. Thus the requirement that all complaints should be investigated by the Race Relations Board or its conciliation committees and that the alleged victim of racial discrimination (unlike the victims of almost all civil wrongs) should be denied direct access to legal remedies suffers from a double disadvantage. It distracts the statutory agency from playing its crucial strategic role whilst leaving many complainants dissatisfied with what has been done on their behalf by means of procedures which may seem cumbersome, ineffective or unduly paternalistic.

42. Financial compensation is rarely an adequate remedy for the victim of the worst examples of racial discrimination, because money cannot compensate him for the indignity, humiliation and distress which he suffers from being treated as inferior on racial grounds. Nevertheless, the award of compensation ought to be able to take into account any injury to feelings as it does for other civil wrongs. The damages which can be awarded under the 1968 Act are confined to special damages and damages for loss of opportunity. The sums awarded have been very small and are reflected in the sums obtained as settlements by the Board and the conciliation committees: in 1974, the amounts ranged from £2 to £150, the median settlement being £23.50.

43. The courts' powers to grant injunctions are also artificially and unnecessarily restricted under the 1968 Act. The Board must prove not only that the defendant has acted unlawfully and that he is likely, unless restrained, to do so again; it must also prove that he has previously engaged in conduct of the same kind or a similar kind. So, if an employer were to refuse, for example, to give a job to someone on racial grounds and made clear that he intended to continue to discriminate unlawfully with respect of any future vacancies, the Board would be unable to obtain an injunction unless it could establish that he had discriminated unlawfully twice in the past—one in respect of the act complained of in the proceedings and once previously. This restriction upon the courts' normal power to grant injunctions is not justifiable.

44. Apart from these weaknesses in the enforcement provisions of the 1968 Act, there are loopholes and anomalies in the provisions defining the scope of the legislation which will be described later in this White Paper.
45. Finally, there are deficiencies in the terms of reference of the two statutory bodies created by the 1968 Act. Reference has already been made to the excessive concentration of the Race Relations Board’s work upon the investigation and conciliation of individual complaints. The broader strategic role and the powers necessary for the performance of such a role are absent from the present legislation. The Board does preventive work of an educational and advisory nature so as to promote racial equality generally. But to some extent there is duplication between this work and some of the activities of the Community Relations Commission.

46. Unlike the Race Relations Board which has fairly precise functions the Community Relations Commission labours under the disadvantage that it has largely had to provide its own terms of reference. It has therefore been handicapped by an uncertainty of aim since its inception and by the overlap between its work and that of the Board.

47. Thanks to the dedicated service of the members and staff of both bodies, they have made an important contribution towards better community and race relations in spite of major structural weaknesses in the legislation. However, the Government accepts the views of the Race Relations Board and the Community Relations Commission that the existing legislation is in urgent need of reform. It has therefore decided to repeal the Race Relations Acts 1965 and 1968 and to replace them with a comprehensive measure.

A NEW STATUTE

48. In its White Paper, “Equality for Women” (Cmnd. 5724), the Government indicated that, in preparing proposals for sex discrimination legislation, it had attempted to avoid a number of weaknesses which experience had revealed in the enforcement provisions of the race relations legislation. The White Paper also stated that it was the Government’s ultimate aim “to harmonise the powers and procedures for dealing with sex and race discrimination so as to secure genuine equality of opportunity in both fields.” The new legislation will be designed to fulfil that aim.

49. The Government proposes to replace the Race Relations Board and the Community Relations Commission by a new public body, which for the purposes of this White Paper will be referred to as the Race Relations Commission, although the Government has noted the recommendation of the Select Committee that it should be called the “Equal Rights Commission”. The Commission will have similar functions and powers to those conferred upon the Equal Opportunities Commission by the Sex Discrimination Bill.

50. Except for good reason, the two statutes and the procedures for their administration and enforcement will be framed in similar terms. It is hoped in this way to ensure wider public understanding of the meaning and effect of the legislation in both fields. As recommended by the Select Committee, the Race Relations Commission and the Equal Opportunities Commission will be encouraged to co-operate closely and to exchange relevant information and experience so as to strengthen their respective roles. The principal functions of the Race Relations Commission will be to work towards the elimination of
racial discrimination and the promotion of racial equality. It will have a major strategic role in enforcing the law in the public interest. Although it will be able to assist and represent individuals in appropriate cases the Commission’s main task will be wider policy: to identify and deal with discriminatory practices by industries, firms or institutions. It will be empowered to issue non-discrimination notices (see paragraph 112) and to bring legal proceedings against those who persistently violate the law. It will also be able to conduct general inquiries and research, to advise Government, and to take action to educate and persuade public opinion. The Commission will have adequate powers to require the production of relevant information. It will be able not only to investigate suspected unlawful conduct but also to keep under review wider policies and practices in the public and private sectors, having particular regard to their implications for and effect upon racial minorities.

51. The Commission will thus have greater powers and wider responsibilities than either the Race Relations Board or the Community Relations Commission, which it will replace. However, some of the functions now performed by those bodies will not be undertaken by the Commission. It will not have the Race Relations Board’s present obligation to investigate every individual complaint and to attempt to obtain settlements and assurances by means of conciliation: nor will it have the Board’s exclusive right to bring legal proceedings, because there will be a right of individual access to legal redress in the industrial tribunals and county courts. For the reasons set out in paragraphs 40 and 41 above, the Government considers that the disadvantages of the present system outweigh any advantages to the individual complainant. Moreover, it has been unable to accept the suggestion in the Race Relations Board’s most recent annual report that these disadvantages might be mitigated within the existing framework by giving “subpoena” powers to the Board for the purpose of investigating individual complaints. The Commission’s powers (like those of the Equal Opportunities Commission under the Sex Discrimination Bill) must necessarily be confined to investigations conducted in the public interest rather than in the interests of a potential plaintiff. When it acts on behalf of an alleged victim, the enforcement body cannot have any greater legal powers than are enjoyed by the individual himself. The Government has therefore decided that the complainant’s interests will be better served by allowing him direct access to legal redress, helped by the special procedure described in paragraph 85 below for questioning the respondent about the reasons for his conduct, and able, where the Commission thinks fit, to obtain the wide range of assistance described in paragraph 87 below. The Government has taken note of the Select Committee’s recommendation that Complaints Boards should be appointed by the Commission to assist its regional staff in dealing with enforcement matters.

52. The Government has received a number of recommendations as to whether the new Race Relations Commission should be, as the Community Relations Commission now is, the source of financial support, training and co-ordination for local community relations work. These recommendations have come from the Select Committee, the Race Relations Board, the Community Relations Commission and from various non-statutory and voluntary organisations. They show a wide divergence of opinion. The Government is convinced of the need to ensure that any new arrangement does nothing to hinder the valuable work being done by the community relations councils and their officers at the local level; indeed it would like to propose arrangements
which would enable the local work not only to continue but to gain in its effectiveness. However, in view of the very wide differences of opinion on how this generally agreed end can best be attained, the Government is undertaking full consultation with those concerned before reaching a view on what the formal relationship between the new central statutory authority and local community relations effort should be.

53. The remainder of this part of the White Paper describes in greater detail the Government's proposals both as regards the scope and enforcement of the new Race Relations Act.

THE SCOPE OF THE LEGISLATION

Definition of Unlawful Discrimination

54. For the purposes of the Race Relations Act 1968 a person discriminates unlawfully against another if "on the ground of colour, race or ethnic or national origins" he treats that other, in any relevant situation, less favourably than he treats or would treat other persons. For the avoidance of doubt the 1968 Act specifically provides that racial segregation constitutes unlawful discrimination.

55. The new Bill will contain a similar definition. In addition, for the reasons given in paragraph 35 above, it will be unlawful to apply a requirement or condition which (irrespective of motive) is such that the proportion of persons of a particular colour, race or ethnic or national origins able to comply with it is considerably smaller than the proportion of other persons able to do so, and which is not justifiable on non-racial grounds. This will, for example, cover the situation where an employer requires applicants to pass an educational test before obtaining employment if (a) the test operates to disqualify coloured applicants at a substantially higher rate than white applicants and (b) it cannot be shown to be significantly related to job performance. The employer will be required to stop using such a test. However, he will not be liable to compensate a victim if he can show that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on racial grounds. The provision will similarly apply to requirements concerning the clothing worn by employees (e.g. preventing the wearing of turbans or saris) or their minimum height, where such requirements cannot be shown to be justifiable. It will also be unlawful to apply a requirement or condition which results or would be likely to result in an act of discrimination as defined above, irrespective of whether the requirement or condition is actually applied to a particular victim. In such a case, however, proceedings will be brought only by the Race Relations Commission. This will, for example, cover the situation where an employer operates recruiting arrangements which result in there being no coloured applicants for job vacancies and thus no act of discrimination against any individual victim. In such a case the Commission will be empowered to issue a non-discrimination notice requiring the employer to cease operating the arrangements, and, in the event of persistent discrimination, to apply for an injunction restraining him from operating them.

56. In Ealing London Borough Council v. Race Relations Board (1972) AC 342, the House of Lords decided that the word "national" in the reference to "national origins" in section 1(1) of the 1968 Act means national in the sense of race and not nationality or citizenship. Accordingly, the local housing
authority had not acted unlawfully on the ground of national origins in adopting a rule that the waiting list for housing accommodation should be restricted to those who were British subjects within the meaning of the British Nationality Act 1948. The resulting gap in the legislation has created some anomalies and difficulties. For example, it is not unlawful to discriminate against someone because he is an Indian national but it is unlawful to discriminate against him because he is of Indian national origins (i.e. of Indian descent). It is contrary to the Treaty of Rome to discriminate against an EEC worker or his family on the basis of nationality. It is unclear to what extent the courts would regard a person's place of birth as constituting his national origins. Moreover, the distinction between nationality and national origins creates an obvious pretext for discriminating on racial grounds. The Government has decided to widen the definition of unlawful discrimination on the ground of national origins to include nationality and citizenship. There will be appropriate exceptions where a person's nationality or citizenship is a justifiable ground for consideration. In this way, the obligations of the Treaty of Rome in relation to EEC workers and their families will be expressly incorporated into the law of Great Britain and will be extended for the benefit of all aliens and Commonwealth citizens in this country.

57. It follows from the principle of non-discrimination that it will remain unlawful to practice “reverse discrimination”; that is, to discriminate in favour of a racial minority. However, if the principle of non-discrimination is interpreted too literally and inflexibly it may actually impede the elimination of invidious discrimination and the encouragement of equal opportunity. Unless the legislation makes appropriate provision, it would, for example, be unlawful to provide special training courses for qualified coloured immigrant workers designed to enable them to compete on genuinely equal terms with others for work from which they have hitherto been excluded. It would also be unlawful for an employer to seek actively to encourage qualified coloured immigrants to apply for employment which, for whatever reason, they have not previously sought. The Government considers that it would be wrong to adhere so blindly to the principle of formal legal equality as to ignore the handicaps preventing many black and brown workers from obtaining equal employment opportunities. Accordingly, the Bill will contain provisions allowing (but not requiring) employers and training organisations to provide special training facilities to members of such groups and to encourage them to take advantage of opportunities for doing particular work. There will be similar exemptions allowing the provision of special training facilities and encouragement by trade unions, employers’ associations, and professional and trade organisations. The Bill will also allow the provision of facilities and services to meet the special needs of particular ethnic or national groups (for example, in relation to education, instruction, training and health and social services), or for the fulfilment of training and trade obligations to overseas countries, and permit discrimination in the employment, where necessary for these purposes, of persons of a particular ethnic or national group.

General Scope

58. Like the 1968 Act, the new legislation will apply to employment, training and related fields, education, housing and the provision to the public of goods, facilities and services. The publication of discriminatory advertisements relating
to activities in these fields will also remain unlawful. However, many of the relevant provisions will be redefined so as to remove loopholes and anomalies and, where appropriate, to harmonise them with comparable provisions in the sex discrimination legislation. The Bill will bind the Crown in respect of all situations covered by the legislation. It will contain a provision similar to that in the Sex Discrimination Bill which will place on Ministers of the Crown and Government Departments a statutory duty not to discriminate in relation to appointments to public offices.

Exceptions

59. The Bill will include provisions to ensure that it does not apply to personal and intimate relationships. However, the exceptions may need to be modified in the light of experience in operating the legislation. There will therefore be a power enabling the Government, after seeking the advice of the Race Relations Commission, to narrow, widen or repeal the exceptions by statutory instrument requiring an affirmative resolution in both Houses of Parliament.

Employment and Related Matters

60. Section 3 of the 1968 Act deals with discrimination by an employer or any person concerned with the employment of others. It will be redefined in the Bill so as to make it clear that it includes the arrangements which an employer makes for the purposes of determining who should be offered employment. The Bill will also remove another ambiguity by defining employment to include employment under a contract personally to execute any work or labour, and it will cover discrimination against contract workers. Employment agencies and vocational training bodies are covered in the 1968 Act only as part of the prohibition of discrimination by the providers to the public of facilities or services and by persons concerned with the employment of others. The Bill will contain specific provisions covering employment agencies, vocational training bodies, and the three bodies which provide facilities or services under the Employment and Training Act 1973 (i.e., the Manpower Services Commission, the Employment Service Agency, and the Training Services Agency). There will be a similar provision to section 4 of the 1968 Act applying to discrimination in relation to the benefits and facilities provided by employers' associations, trade unions and professional and trade organisations. The Bill will contain a new provision making it unlawful for a partnership of six or more partners to discriminate in the selection of other partners or the treatment of existing partners. The Bill will also make it unlawful for a body (including a licensing body) to discriminate in conferring any authorisation or qualification which, in law or practice, is required by a person who engages in a particular trade or profession. Where the body is required by law to take account of a person's character, it will be obliged to have regard to any evidence tending to show that he, or any of his employees or agents has practised unlawful discrimination in the carrying on of any profession or trade.

Employment Exceptions

61. The Bill will modify the existing employment exceptions in certain respects.

62. Under the "racial balance" exception to the 1968 Act an employer may discriminate in selecting persons for employment if he does so in good faith.
for the purpose of securing or preserving a reasonable balance of persons of different racial groups employed in the undertaking or part of it. The problem with which this exception was designed to deal is that some jobs may become identified with a particular ethnic group, and may then attract a disproportionate number of applicants from that group, especially when they are immigrants with their own particular language and customs. Such a situation may impair good race relations as well as good industrial relations. It may also impede the employment prospects of the workers concerned, since they gain no experience of working in an unsegregated industrial situation and so are handicapped in seeking promotion or moving to better jobs elsewhere. As the Race Relations Board has observed: “for a time segregation may represent a form of accommodation acceptable to all, but if it hardens into patterns, tensions and conflicts will occur when pressures to change the pattern arise.” The extent to which employers rely upon their own interpretation of the racial balance exception is unknown. However, it has rarely been invoked in the course of investigations by the Board and there is little evidence that its original purpose is being achieved. It may be the source of misunderstanding and abuse, preserving rather than discouraging segregated work units. The Government therefore accepts the Board’s recommendation that since the exception provides a legal justification for discrimination and thereby detracts from the Act as a code of conduct without, in practice, appearing to provide any tangible compensating advantages, it should be repealed. The right approach to the problem will be by securing genuine equality of opportunity and treatment, regardless of colour, race or ethnic or national origins, throughout all sectors of industry, and by providing facilities to meet the special training needs of workers of particular ethnic or national origins. The Bill will allow the provision of facilities and services to meet such special needs.

63. The exception in section 8(11) of the 1968 Act for the selection of a person of a particular nationality or descent for employment requiring attributes especially possessed by persons of that nationality or descent will be replaced by a narrower exception applying to the selection of a person for a job where the essential nature of the job calls for a person of a particular colour, race or ethnic or national origins for reasons of authenticity (e.g., acting, or being a waiter in a Chinese restaurant with a distinctive Chinese decor) or, exceptionally, to enable the special needs of a particular ethnic or national group to be met or a training or trade commitment to an overseas country to be fulfilled. A new exception will be made to the advertising provision (paragraph 76 below), permitting the publication of an advertisement indicating that a person of a particular colour, race or ethnic or national origins is required for such a job.

64. The 1968 Act contains six separate exceptions allowing discrimination in employment on ships or aircraft. The Government considers that these exceptions could be inconsistent with the general principle of non-discrimination and is therefore engaged in consultations with both sides of the industry in an endeavour to resolve any problems.

Education

65. There is no separate education provision in the 1968 Act. Facilities for education, instruction or training are merely listed in section 2(2) as one example of facilities and services provided to the public or a section of the public.
The Bill will contain separate provisions making it unlawful for educa-
tional establishments to discriminate, or for an education authority, in carrying
out its functions under the Education Acts, to do any act which constitutes
unlawful discrimination, and imposing a general duty upon bodies in the public
sector of education to secure that their facilities are provided without racial
discrimination. The Bill will also allow the provision of education to meet the
special needs of individual pupils or groups of pupils of whatever ethnic or
national origins.

The general duty in the public sector will be enforceable in the first
instance by the Education Ministers in those areas in which they have the
necessary powers under the Education Acts. The special procedures for the
enforcement of the education provisions of the Bill are described in paragraph
103 below.

**Housing Accommodation, etc.**

68. Section 5 of the 1968 Act makes it unlawful to discriminate in the disposal
or management of housing accommodation, business premises or other land;
and section 7 contains exceptions for the disposal of residential accommodation
(a) by a landlord living in small premises and sharing relevant accommodation
with persons who are not members of his household, or (b) by an owner-
occupier who does not use the services of an estate agent or advertise. These
provisions will be retained in the Bill, but they will be brought into line with the
equivalent provisions of the Sex Discrimination Bill so as to avoid possible
differences of judicial interpretation of the two statutes where they are intended
to cover identical ground.

69. Section 5 of the Race Relations Act 1965 (which was not repealed by the
1968 Act) relates to racially discriminatory restrictions on the transfer of
tenancies. The provision is anomalous in the light of the housing provisions of
the 1968 Act and of the Bill; it will therefore be repealed. Under the Bill such
restrictions will be void by virtue of the provision dealing with discriminatory
terms in contracts (paragraph 78). The Bill will contain a specific provision
making it unlawful for a landlord to discriminate against the prospective
assignee or sublessee of a tenancy by withholding consent to the assignment or
subletting.

**Goods, Facilities and Services**

70. Section 2 of the 1968 Act makes it unlawful for any person concerned
with the provision to the public or a section of the public of goods, facilities or
services to discriminate against anyone seeking to obtain or use them. This
provision will be retained in the Bill, which will make clear that it includes
indirect access to benefits, facilities or services. The Bill will allow the provision
of facilities and services to meet the special needs of persons of particular ethnic
or national origins.

71. Section 7(6) of the 1968 Act provides that it is not unlawful by virtue of
section 2 to discriminate against any person in respect of the provision of
sleeping cabins for passengers on a ship if compliance with that section would
result in persons of different colour, race or ethnic or national origins being
compelled to share a cabin. This exception is incompatible with the principle
of non-discrimination. With the concurrence of the industry as a whole it will
be repealed.
Social clubs and other voluntary bodies

72. The House of Lords has decided, in two cases involving alleged racial discrimination by social clubs, that the words “section of the public” in section 2 of the 1968 Act do not apply to members or associate members of such clubs. Some 4,000 working men’s clubs, with a total membership of about 3½ million people, are affiliated to the Club and Institute Union and are not covered by the 1968 Act. In some towns they have replaced public houses as the main providers of facilities for entertainment, recreation and refreshment. In addition, thousands of golf, squash, tennis and other sporting clubs registered as members’ clubs are, almost certainly, also outside the 1968 Act, except in so far as they may offer only limited playing facilities to the public generally. Many clubs do not discriminate on racial grounds but at present they may lawfully do so. The Government considers that it is right that all clubs should be allowed to apply a test of personal acceptability to candidates for membership, but it considers that it is against the public interest that they should be entitled to do this on racial grounds. The Government believes that the relationship between members of clubs is no more personal and intimate than is the relationship between people in many situations which are rightly covered by the 1968 Act; for example, the members of a small firm or trade union branch, children at school, or tenants in multi-occupied housing accommodation. In principle it is justifiable to apply the legislation in all these situations because of the inherently unjust and degrading nature of racial discrimination and its potentially grave social consequences. In practice the objectives of the legislation will be seriously undermined if its protection does not extend beyond the workplace and the market-place to enable workers and other members of the public to obtain entertainment, recreation and refreshment together on the basis of equality, irrespective of colour or race.

73. The Bill will therefore make it unlawful for a club or other voluntary body to discriminate as regards the admission of members or the treatment accorded to members. Subject to this the Bill will not, of course, affect the right of such a body to withhold membership or facilities from someone who does not qualify for them in accordance with its rules. Small voluntary bodies will be exempted from this provision so as to avoid interference with the kind of regular social gathering which is genuinely private and domestic in character. In addition, there will be an exception to enable bona fide social, welfare, political and sporting organisations whose main object is to confer benefits on a particular ethnic or national group to continue to do so.

Instructions to Discriminate

74. The Bill will make it unlawful for a person who has authority over another person, or in accordance with whose wishes that other person is accustomed to act, to instruct him to do any act which is unlawful by virtue of any of the provisions described above, or to procure or attempt to procure the doing of any such act. The special procedure for the enforcement of this provision by the Race Relations Commission is described below in paragraph 105.

Victimisation

75. The Bill will make it unlawful to victimise a person by treating him less
favourably than other persons whether because he has brought proceedings or
given evidence or information in connection with proceedings brought under
the Bill, or done anything else under or by reference to the Bill in relation to the
discriminator or to anyone else.

Discriminatory Advertisements

76. Section 6 of the 1968 Act makes it unlawful to publish or display, or to
cause to be published or displayed, any advertisement or notice which indicates
or could be understood as indicating an intention to do an act of discrimination,
whether or not the intended act would be unlawful by virtue of any other
provision of the Act. For example, it is unlawful to publish an advertisement
stating “flats to let—no coloureds”, whether or not the particular premises are
within the scope of the 1968 Act. This is justifiable because the public display
of racial prejudices and preferences is inherently offensive and likely to encourage
the spread of discriminatory attitudes and practices. In one respect, however,
Section 6 is too wide. Where the essential nature of a job calls for a person of a
particular colour, race or ethnic or national origins for reasons of authenticity
the employer will be entitled to select such a person by virtue of the exception
referred to in paragraph 63 above. In such a situation it is obviously right that
he should be able to indicate his preference when advertising the job vacancy,
and the Bill will enable him to do so. On the other hand, in one respect section
6 is too restrictive. By virtue of section 6(2) it is not unlawful to publish an
advertisement which indicates that Commonwealth citizens or any class of
such citizens are required for employment outside Great Britain. As a result,
foreign or British employers could at present advertise in this country for white
citizens of the United Kingdom and Colonies or for white Commonwealth
citizens. Although the Bill will not apply to employment overseas it will ensure
that no racially discriminatory advertisements may lawfully be published in
Great Britain. The special procedure for the enforcement of the advertising
provision by the Race Relations Commission is described below in paragraph
104.

Pressure to Discriminate Unlawfully, etc.

77. Section 12 of the 1968 Act provides that any person who deliberately
aids, induces or incites another person to do an unlawful act shall be treated
as doing that act. The Bill will redefine this provision so as to bring it into line
with the provisions of the Sex Discrimination Bill dealing with pressure to
discriminate unlawfully and the aiding of unlawful acts. The special procedure
for the enforcement by the Race Relations Commission of the provision
covering pressure to discriminate unlawfully is described below in paragraph
105.

Contractual Terms

78. Section 23 of the 1968 Act provides that a contract or a term in a contract
which contravenes the Act shall not be unenforceable by reason only of the
contravention, but may in certain circumstances be revised by the courts. The
Bill will replace section 23 by provisions similar to those contained in the Sex
Discrimination Bill dealing with the validity and revision of discriminatory
contractual terms.
Charities

79. Section 9 of the 1968 Act exempts from the Act a provision in a future charitable instrument which confers benefits on persons of a particular race, descent or ethnic or national origins (but not colour) or anything done in order to comply with such a provision or with the provisions of any existing charitable instrument. The Bill will contain a similar exception, but it will also make clear that any provision in an existing or future charitable instrument which confers benefits on persons of a particular colour is void and that it is unlawful to do any act in Great Britain in order to give effect to such a provision. It will authorise the trustees of such a charity to apply its benefits irrespective of the colour of the beneficiaries.

Northern Ireland

80. Like the Race Relations Acts 1965 and 1968, the Bill will not apply to Northern Ireland.

THE ENFORCEMENT OF THE LEGISLATION

81. It is to be hoped that most institutions and individuals will respond to the Government's positive lead in promoting equality of opportunity and will change their practices voluntarily. However, it is essential in those cases where this does not occur that the law should be capable of providing adequate redress for the victim of racial discrimination as well as eliminating discriminatory practices which are against the public interest. As explained in paragraphs 49-51 above, the Government proposes to adopt the new and radical approach reflected in the enforcement provisions of the Sex Discrimination Bill. It will combine the right of individual access to legal remedies with the strategic functions of a powerful Race Relations Commission responsible for enforcing the law on behalf of the community as a whole.

Individual Remedies

Employment and related matters

82. It is proposed to use the same machinery and procedures for complaints of racial discrimination in employment and related matters as is used for complaints arising under the Sex Discrimination Bill and in respect of unfair dismissals (including dismissals on allegedly racial grounds), since the two kinds of complaint are closely related. Complaints of racial discrimination will, therefore, be dealt with by the industrial tribunals in the situations described above, in paragraph 60, i.e. those involving:—

(a) employment and training;
(b) employment agencies;
(c) training organisations;
(d) employers' associations, trade unions and professional and trade organisations; and
(e) partnerships.

The industrial tribunals will also consider complaints involving instructions to discriminate, victimisation, the publication of discriminatory advertisements, pressure to discriminate, and the aiding of unlawful acts, in any of the above
situations. However, complaints relating to instructions to discriminate, discriminatory advertising, and pressure to discriminate will be made to the Race Relations Commission rather than directly to the tribunals, and only the Commission will be entitled to bring them before the tribunals, and, where necessary, the courts, as described in paragraphs 104-105 below.

83. The industrial tribunals consist of legally qualified chairmen assisted by lay members who are appointed from among persons nominated by the Trades Union Congress and employers’ organisations. The Government will draw the attention of the nominating organisations to the desirability of including members of racial minorities among the nominees.

84. Individuals will have three months from the date when the act complained of was done in which to make their complaints to the tribunals. In the case of those matters referred to in paragraph 82 above, which may be brought before the tribunals by the Commission alone, an application will have to be made within six months from the date when the act to which it relates was done. However, the tribunal will have power to hear a complaint or application which is out of time where it considers it just and equitable to do so.

85. Help will be given to a person who considers that he may have been discriminated against unlawfully to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner. Standard forms will be made available by means of which he may question the respondent on his reasons for doing any relevant act or on any other matter which may be relevant and by means of which the respondent may if he so wishes reply to such questions. The questions and replies will, subject to the normal rules relating to admissibility, be admissible as evidence in the proceedings; and if it appears to the tribunal that the respondent deliberately omitted to reply within a reasonable period or that his reply is evasive or equivocal, the tribunal will be entitled to draw any inference from that fact which it considers it just and equitable to draw, including an inference that he committed an unlawful act. In addition to helping the aggrieved person to ascertain the nature of the respondent’s case at an early stage by means of a simple, inexpensive procedure, this provision will also enable complaints which are groundless or based on misunderstandings to be resolved without recourse to legal proceedings.

86. In submitting a complaint and bringing any subsequent proceedings, the individual will be able to present his own case or, if preferred, to be represented, for example, by a trade union legal representative, a community relations officer, a minority organisation, or may seek the assistance of the Race Relations Commission. The legal advice and assistance scheme is available to enable complainants of limited means to obtain legal advice on whether proceedings should be instituted and to give legal assistance during conciliation and, if necessary, in preparation of a case for hearing.

87. The Commission will be able to grant assistance to an actual or prospective complainant if it considers that the case raises a question of principle, or that it is unreasonable having regard to the complexity of the case or the applicant’s position in relation to the respondent or another person involved or any other matter to expect him to deal with the case unaided, or by reason
situations. However, complaints relating to instructions to discriminate, discriminatory advertising, and pressure to discriminate will be made to the Race Relations Commission rather than directly to the tribunals, and only the Commission will be entitled to bring them before the tribunals, and, where necessary, the courts, as described in paragraphs 104-105 below.

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87. The Commission will be able to grant assistance to an actual or prospective complainant if it considers that the case raises a question of principle, or that it is unreasonable having regard to the complexity of the case or the applicant's position in relation to the respondent or another person involved or any other matter to expect him to deal with the case unaided, or by reason
of any other special consideration. The Commission’s possible assistance will include:

(a) giving advice;
(b) procuring or attempting to procure the settlement of any matter in dispute;
(c) arranging for the giving of advice or assistance by a solicitor or counsel under the legal advice and assistance scheme;
(d) arranging for representation by any person.

The Commission will thus have a wide discretion as to the circumstances in and the means by which it provides advice, assistance or representation to individual complainants. In exercising its discretion the Commission will have regard to its primary strategic role as well as to the interests of individual complainants.

88. Employment complaints will initially be considered by conciliation officers, who form part of the independent Advisory Conciliation and Arbitration Service. The conciliation officers will act as an independent source of conciliation and advice to try to help the parties to reach a settlement of a complaint without its being determined by a tribunal. It will also be open to a complainant to make use of any jointly agreed grievance machinery which applies in the employment area concerned and the conciliation officers will where appropriate encourage him to do so in an appropriate case. This will replace the existing provisions for the mandatory use of voluntary industry machinery in the 1968 Act.

89. Complaints which are not settled by conciliation nor withdrawn will be heard by the tribunals. Where the complainant alleges that he has been discriminated against on racial grounds he will have to discharge the normal burden of proof applicable to civil proceedings. He will therefore have to show that the respondent has acted to his detriment in circumstances suggesting that such detrimental action has been taken on racial grounds. It will then be for the respondent to show that the complainant has not been treated less favourably than other persons on those grounds. Different considerations apply where the complainant alleges that (irrespective of motive) he has been discriminated against by reason of the application to him of a requirement or condition which is racially discriminatory in its effect (paragraph 55 above). In that event the complainant will have to show that the respondent has applied a requirement or condition to him such that the proportion of persons of the relevant colour, race or ethnic or national origins able to comply with it is considerably smaller than the proportion of other persons able to do so. It will then be for the respondent to prove that the requirement or condition is justifiable. The respondent will not be liable to compensate a victim if he can show that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on racial grounds.

90. Where the tribunal is satisfied that unlawful discrimination has occurred in a particular case, it will be able:

(a) to declare the rights of the parties; and/or
(b) to make an award of compensation; and/or
(c) to recommend that the respondent take action to obviate or reduce the adverse effect on the complainant of any act of discrimination to which the complaint relates.

The compensation which may be awarded may include compensation for injury to feelings. The amount of compensation which may be awarded to a complainant will not exceed the amount for the time being specified in paragraph 20(1)(b) of Schedule I to the Trade Union and Labour Relations Act 1974 (i.e. £5,200). However, if without reasonable justification the respondent fails to comply with a recommendation under (c) above, the tribunal will have power on further application to increase the amount of compensation paid to the complainant, or, if an award under (b) above could have been made but was not, the tribunal will have power to make such an award.

91. The decisions of the tribunals will, as at present, be recorded in the public register at the Central Offices of Industrial Tribunals. The secretaries of the tribunals will inform the Commission of all decisions.

92. An individual’s direct interest in a case will normally end with the tribunal’s decision on his case, or with the outcome of any appeal against the tribunal’s decision. The individual will not normally have any direct interest in following up his case provided that the respondent complies with the tribunal’s decision. It will, however, be essential for relevant tribunal decisions as well as the Commission’s non-discrimination notices (paragraph 112 below) to be followed up so as to ensure proper compliance with the legislation in the public interest on behalf of the community as a whole. Accordingly, the Commission will, where appropriate, be able to seek injunctions or orders before specially designated county courts in England and Wales and sheriff courts in Scotland, in the manner described below in paragraphs 115-116.

93. Appeals will lie from industrial tribunals on points of law to the proposed Employment Appeal Tribunal, and thereafter to the Court of Appeal, or, in Scotland, to the Court of Session.

Other complaints

94. Industrial tribunals are not equipped to deal with complaints of discrimination outside the employment field. Such complaints will be dealt with by specially designated county courts and sheriff courts in Scotland. They will relate to the situations described above, in paragraphs 65-73, involving:

(a) education;
(b) housing accommodation, etc.; and
(c) the provision of goods, facilities and services.

There will be special procedures in relation to education, which are described below in paragraph 103.

95. The county courts and sheriff courts will also consider complaints involving instructions to discriminate, victimisation, the publication of discriminatory advertising, and the aiding of unlawful acts in any of the non-employment situations covered by the Bill. However, as in the field of employment, complaints relating to instructions to discriminate, discriminatory advertising, and pressure to discriminate will be made to the Commission
rather than directly to the courts, and only the Commission will be entitled to
bring them before the courts, as described below in paragraph 104.

96. Under the 1968 Act the judge or sheriff is assisted by two assessors with
special knowledge and experience of problems connected with community and
race relations. These provisions enable the courts (like the industrial tribunals)
to have the benefit of lay expertise and minority representation in dealing with
cases under the race relations legislation. It is therefore proposed to retain these
provisions in the Bill, while enabling the attendance of the assessors to be
dispensed with by agreement between the parties. The assessors will be appointed
from lists of persons prepared and maintained by the Home Secretary and the
Secretary of State for Scotland, being persons appearing to them to have
special knowledge and experience of situations covered by the Bill. The
Government intends to ensure that members of racial minorities and others
with relevant knowledge and experience are substantially represented in these
lists. For example, those who have had experience of the work of the conciliation
committees would have a valuable contribution to make.

97. Individuals will normally have six months in which to bring proceedings
in the courts. In the case of those matters referred to in paragraph 82 above
which may be brought before the courts only by the Commission proceedings
will have to be instituted within six months from the date when the act to which
they relate was done. However, the court will have power to hear a claim or
application which is out of time if it considers that it is just and equitable to
do so.

98. A person who considers that he may have been discriminated against
unlawfully will be given help to decide whether to institute proceedings and,
if he does so, to formulate and present his case in the most effective manner,
by means of the procedure described above in paragraph 85. As in the employ­
ment field, the legal advice and assistance scheme is available to enable a person
of limited means to obtain legal advice on whether proceedings should be
instituted. In addition, legal aid will be available to enable prospective plaintiffs
of limited means with reasonable prospects of success to institute proceedings
in the county courts and sheriff courts. Although there will be no formal
machinery for conciliation (such as will be available for complaints in the
employment field) before cases come before the courts, the ordinary powers
of the courts and the risks inherent in litigation should encourage the parties
and their representatives to settle their differences without unnecessary resort
to legal proceedings. The process of attempted settlement which the legal
profession normally undertakes before advising on the commencement of
legal proceedings as well as after proceedings have actually been launched will
therefore be applicable to disputes arising under the Bill. Furthermore, since
the Commission's power to give assistance to an actual or prospective plaintiff
described above in paragraph 87, will include the power to give advice and to
procure or attempt to procure the settlement of any matter in dispute, the
Commission itself will in appropriate cases be able to secure a settlement of a
dispute without the necessity to resort to litigation.

99. The position as regards the burden of proof will be the same as the position
in employment and related matters described above in paragraph 89 for direct
discrimination and for indirect unjustifiable discrimination respectively.
100. Where the court is satisfied that unlawful discrimination has occurred in the particular case, it will be able to grant the normal remedies obtainable for a claim in tort (or, in Scotland, in reparation for breach of statutory duty). Thus, the court will be able:

(a) to declare that the defendant has acted unlawfully; and/or
(b) to award damages (including compensation for injury to feelings); and/or
(c) to grant an injunction (or make an order) restraining the defendant from discriminating unlawfully against the plaintiff.

The court will also be able, on the application of any person interested in a contract, to make an order removing or modifying a term in such a contract made unenforceable by the Bill provisions contemplated in paragraph 78.

101. Although there are differences in the precise form of relief which may be granted by the industrial tribunals and the civil courts, the same principles will apply to the scope of relief in individual cases. The individual complainant will be entitled to seek remedies appropriate to redress the particular wrong which he has suffered by reason of an act of unlawful discrimination. He will not be entitled to seek any wider form of relief (e.g., general injunctive relief restraining persistent discrimination). The Race Relations Commission will have the exclusive right to seek such wider forms of relief in the public interest.

102. Appeals will lie from the county courts to the Court of Appeal and from the sheriff courts to the Court of Session.

**Education**

103. As regards those bodies over which the Education Ministers exercise powers under the Education Acts, complaints of unlawful discrimination or breach of statutory duty will be made in the first instance to the appropriate Minister. Individual legal proceedings will be precluded for a period not exceeding two months during which the Minister will consider the complaint and whether to exercise his powers. If, after the expiry of that period, the complainant remains dissatisfied, he will be entitled to bring proceedings in the courts. As regards those educational bodies over which the Education Ministers exercise no statutory powers (including the universities) the complainant will have immediate access to his legal remedies in the courts.

**Complaints assigned to the Commission**

104. All complaints about discriminatory advertisements will be made to the Commission. This is desirable because this type of complaint could not usually be shown to have any substantial prejudicial effect which could form the basis of an individual application to a court or tribunal. Moreover it will avoid numerous complaints in respect of the same advertisement being processed separately. The Commission will be able to take the matter up, for example, with the employer and/or advertiser concerned and, where appropriate, to seek assurances as to future advertisements. Where necessary, the Commission will be able to institute legal proceedings.

105. All complaints about instructions or pressure to discriminate unlawfully will be made to the Commission, which will take the matter up with the persons concerned. The aim wherever possible will be to resolve such situations by
persuasion and conciliation. However, the Commission will as a last resort be able to take legal proceedings. If, in the course of ordinary individual proceedings before a tribunal or court, it becomes apparent that the person against whom proceedings have been brought may have been under instructions or pressure from other persons to discriminate unlawfully, the tribunal or court, in addition to deciding the case before it, will be able to advise the parties of the right to complain about such pressure directly to the Commission.

**Occupational Licensing**

106. In addition to the individual’s right of access to legal redress from the tribunals or courts, the Bill will also enable complainants to make representations to bodies conferring authorisations or qualifications to engage in a particular profession or trade about any acts of unlawful discrimination alleged to have been done by an applicant for such an authorisation or qualification or by his employees or agents. Such bodies will be required to have regard to such evidence in deciding whether the applicant is of sufficiently good character to be granted the necessary authorisation or qualification.

107. Where the applicant considers that the relevant body has discriminated unlawfully against him in deciding whether to confer the authorisation or qualification upon him, he will be entitled to appeal against the decision.

**THE RACE RELATIONS COMMISSION**

**Composition and Staffing, etc.**

108. It is proposed to create a Race Relations Commission consisting of a chairman and not more than 14 other members appointed by the Home Secretary after consultation with the other Ministers concerned. The Bill will not specify fixed quotas for persons of particular colour, race or ethnic or national origins; to do so would be contrary to the principle of selection on individual personal merit upon which the Bill depends. However, the Government will ensure that the various racial minorities are substantially represented in its composition. Members of the Commission will be appointed from persons with a wide range of relevant knowledge and experience (e.g., from industry, commerce, the professions, education, minority organisations, and those with special knowledge and experience of the operation of anti-discrimination legislation). It will include full-time and part-time members. It will be able to set up committees to deal with particular aspects of its work, and there will be provision for the appointment of additional commissioners to conduct special inquiries. The Commission will have a number of offices throughout the country and its staff will have appropriate specialist qualifications. In formulating these proposals the Government has had regard to the recommendation of the Select Committee on the composition and structure of the new Commission.

**Main Functions**

109. The Commission’s main functions will be:

(a) to conduct investigations in areas covered by the Bill and take action to eliminate unlawful practices;

(b) to promote equality of opportunity between people of different colour, race or national origins generally;
(c) to conduct inquiries into matters outside the scope of the legislation which may affect the relative positions and opportunities of the different racial, ethnic and national sections of the community;

(d) to assist and represent individual complainants in appropriate cases;

(e) to keep the operation of the legislation under review and make recommendations;

(f) to conduct research and to take action to educate and persuade public opinion.

110. As mentioned in paragraph 52 above, the precise nature of the relationship between the Commission and local community effort will depend upon the outcome of further consultation. However, whatever the decision, the Commission will necessarily maintain a close working relationship through its regional staff with local community relations officers and their community relations councils as well as with the various minority organisations. The Commission will have links with the appropriate central and regional bodies. The chairman of the Commission will serve on the proposed Standing Advisory Council (see paragraph 21 above). The Home Office will be the Department primarily responsible for the Commission. However, the Commission will also, of course, have direct access to those concerned with the development and implementation of race relations policies in the relevant Government Departments. It will be a valuable source of information and advice about the operation and effect of such policies. The Commission will also be a source of practical guidance to those affected by the legislation about practices and procedures which would promote equality of opportunity and encourage compliance with the spirit as well as the letter of the law.

Investigations by the Commission

111. The Commission will be entitled to conduct formal investigations on its own initiative for any purpose connected with the carrying out of its functions. It may also be required by the Home Secretary or the Secretary of State for Scotland to conduct investigations. Investigations may either be wide-ranging or confined to a particular organisation or individual. The terms of reference for a formal investigation will be drawn up by the Commission (where relevant in consultation with the Home Secretary or the Secretary of State for Scotland). In the course of such an investigation the Commission will be able, where necessary, to require the furnishing of written information and the production of documents as well as to summon witnesses to give evidence; and it will be able to seek a court order in cases of failure or refusal to comply with such a requirement. These powers to compel the disclosure of information and the giving of information will only be exercisable if either (a) the Home Secretary has given appropriate authorisation or (b) the terms of reference of the investigation state that the Commission believes that a particular organisation, or individual named in them, may have done or may be doing unlawful discriminatory acts, and confine the investigation to that matter. There will be restrictions on the disclosure of information obtained in the exercise of these powers so as to ensure respect for personal privacy and confidentiality.

112. Upon completion of an investigation, the Commission will establish the relevant facts and will publish or make available for inspection a report which might include recommendations for changes in policies and procedures,
or recommendations to the Home Secretary for changes in the law or other changes. Where an investigation discloses an unlawful act or practice the Commission will be empowered to issue a non-discrimination notice requiring the recipient to cease doing such acts or operating such practices or to alter his practices so as to comply with the law. The Commission will not issue a non-discrimination notice unless it (a) has first given notice to the recipient of its intention to do so, specifying the grounds, and (b) has offered him an opportunity of making oral or written representations. It will, however, be able, where appropriate, to require the recipient to take reasonable steps to make known, to those likely to be affected, the changes which are made in the practice concerned, and to inform the Commission that he has effected those changes and what those changes are. A non-discrimination notice will also be able to require the recipient to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with. It may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission.

113. The recipient will be entitled to appeal to the tribunal or court (as the case may be) against any requirement of the notice on the ground that it is unjustified or unreasonable. The tribunal or court will determine on the evidence whether to confirm the notice or to quash it, with or without any amendments. If no appeal is made against a notice within six weeks from the date when it was served or if the recipient’s appeal is unsuccessful and the notice is confirmed by the tribunal or court, the notice will become final (i.e., non-compliance with its terms will render the recipient liable to legal proceedings). All non-discrimination notices which have become final will be recorded in a public register maintained by the Commission.

114. The Commission will be able to undertake a further investigation at any time within five years from the date on which a non-discrimination notice has become final so as to ascertain whether the recipient has complied with its terms.

Other powers of enforcement

115. If, within five years from the date when a non-discrimination notice or a finding by a court or tribunal of unlawful discrimination has become final in relation to any person, it appears to the Commission that he is likely again to act unlawfully, the Commission will be able to apply to the county court for an injunction (or, in Scotland, to the sheriff court for an order) restraining him from doing so.

116. With a view to applying for an injunction or order against persistent discrimination in the field of employment and related matters, if the tribunal has not already made a finding that a person has done an unlawful act, the Commission will be empowered to present to the tribunal a complaint that he has acted unlawfully. If the tribunal considers that the complaint is well-founded it will make a finding to that effect, and it may also:

(a) declare the rights of the person discriminated against and the respondent; 
and/or

(b) recommend that the respondent take action to obviate or reduce the adverse effect on the person discriminated against of the discrimination to which the complaint relates.
or recommendations to the Home Secretary for changes in the law or other changes. Where an investigation discloses an unlawful act or practice the Commission will be empowered to issue a non-discrimination notice requiring the recipient to cease doing such acts or operating such practices or to alter his practices so as to comply with the law. The Commission will not issue a non-discrimination notice unless it (a) has first given notice to the recipient of its intention to do so, specifying the grounds, and (b) has offered him an opportunity of making oral or written representations. It will, however, be able, where appropriate, to require the recipient to take reasonable steps to make known, to those likely to be affected, the changes which are made in the practice concerned, and to inform the Commission that he has effected those changes and what those changes are. A non-discrimination notice will also be able to require the recipient to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with. It may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission.

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116. With a view to applying for an injunction or order against persistent discrimination in the field of employment and related matters, if the tribunal has not already made a finding that a person has done an unlawful act, the Commission will be empowered to present to the tribunal a complaint that he has acted unlawfully. If the tribunal considers that the complaint is well-founded it will make a finding to that effect, and it may also:

(a) declare the rights of the person discriminated against and the respondent; and/or

(b) recommend that the respondent take action to obviate or reduce the adverse effect on the person discriminated against of the discrimination to which the complaint relates.
However, only the Commission will be able to apply for an injunction (or, in Scotland, for an order) in the field of employment and related matters.

117. The Commission will be able to take similar preliminary action before a tribunal with a view to applying for an injunction or order against persistent discrimination in relation to discriminatory advertising, and instructions or pressure to discriminate unlawfully in the field of employment and related matters.

118. The Commission will be able to take further action to eliminate unlawful practices. For example, it will be able to draw unlawful conduct to the attention of relevant public authorities and private institutions.

Individual complaints

119. The Commission will be informed of all complaints made to the tribunals or courts and will receive copies of all decisions. It will become a source of information generally about the working of the legislation in relation to individual complaints. It will have the power where appropriate to advise and assist individuals in preparing and presenting complaints, to attempt to settle any matter in dispute, and to help complainants to conduct legal proceedings, including appeals (paragraphs 87 and 98). However, it will not be under any duty to give advice or assistance, but will be empowered to do so at its discretion (paragraph 87). Moreover, the Commission will have no greater power in representing an individual than would be enjoyed by the individual or his representative (see paragraphs 5 and 111).

Inquiries into areas not covered by the Bill

120. The Commission’s role will not be confined to the promotion of equal opportunity and the elimination of racial discrimination in the narrow legal sense. It will also be able to conduct wide-ranging inquiries into matters not covered by the Bill which cause or contribute to discrimination, prejudice and disadvantage. For these purposes, the Commission will be empowered to require the furnishing of written information and the production of documents as well as to summon witnesses to give evidence. However, these powers will be exercised only with the consent of the Home Secretary or the Secretary of State for Scotland and subject to the safeguards referred to above in paragraph 111.

Monitoring the legislation

121. The Commission will advise the Government about the operation of the legislation and about any statutory orders to be made under the Bill (e.g. to narrow, widen or repeal exceptions to the scope of the Bill).

Research and promotional functions

122. In addition, the Commission will be able to conduct or support research, and it will be represented on the Advisory Committee on Race Relations Research. It will also take action to educate and persuade public opinion with a view to promoting equality of opportunity irrespective of colour, race or ethnic or national origins.
123. The Commission will be required to make periodic reports to the Secretary of State about its activities. Its reports will be laid before Parliament and will be open for debate in the usual way.

RACIAL INCITEMENT AND PUBLIC ORDER

124. Section 6 of the Race Relations Act 1965 created the offence of incitement to racial hatred. A person is guilty of the offence if, with the deliberate intention of stirring up racial hatred, he circulates written matter or uses words in public which (a) are threatening, abusive or insulting and (b) are likely to stir up such hatred. Section 5 of the Theatres Act 1968 also made it an offence for anyone to present or direct a public performance of a play, involving the use of threatening, abusive or insulting words, with the deliberate intention of stirring up racial hatred, if that performance, taken as a whole, is likely to have such an effect. Both offences are punishable, on summary conviction, by a maximum of six months' imprisonment or a fine of £200, or both; and, on conviction on indictment, by a maximum of two years' imprisonment or a fine of £1,000, or both. No prosecution can be brought in England and Wales for either offence except by or with the consent of the Attorney General.

125. These offences are entirely separate from the anti-discrimination provisions of the race relations legislation. They deal with the stirring up of racial hatred rather than with acts of racial discrimination; they are criminal rather than civil; and they are enforced in the criminal courts rather than by the Race Relations Board in the civil courts. In several respects they are similar to the offence under Section 5 of the Public Order Act 1936 of using threatening, abusive or insulting words, in any public place or at any public meeting, with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned. They are concerned to prevent the stirring up of racial hatred which may beget violence and public disorder.

126. Relatively few prosecutions have been brought under Section 6 of the 1965 Act and none has been brought under Section 5 of the Theatres Act. However, during the past decade, probably largely as a result of Section 6, there has been a decided change in the style of racist propaganda. It tends to be less blatantly bigoted, to disclaim any intention of stirring up racial hatred, and to purport to make a contribution to public education and debate. Whilst this shift away from crudely racist propaganda and abuse is welcome, it is not an unmixed benefit. The more apparently rational and moderate is the message, the greater is its probable impact on public opinion. But it is not justifiable in a democratic society to interfere with freedom of expression except where it is necessary to do so for the prevention of disorder or for the protection of other basic freedoms. The present law penalises crude verbal attacks if and only if it is established that they have been made with the deliberate intention of causing groups to be hated because of their racial origins. In the Government's view this is too narrow an approach. It accepts the observation made by Sir Leslie Scarman in his report on the Red Lion Square disorders that Section 6 is too restrictively defined to be an effective sanction. It therefore proposes to ensure that it will no longer be necessary to prove a subjective intention to stir up racial hatred.

127. The present law does not, however, penalise the dissemination of ideas
based on an assumption of racial superiority or inferiority or facts (whether true or false) which may encourage racial prejudice or discrimination. It is arguable that false and evil publications of this kind may well be more effectively defeated by public education and debate than by prosecution and that in practice the criminal law would be ineffective to deal with such material. Due regard must also of course be paid to allowing the free expression of opinion. The Government is not therefore at this stage putting forward proposals to extend the criminal law to deal with the dissemination of racialist propaganda in the absence of a likelihood that group hatred will be stirred up by it. It recognises, however, that strong views are held on this important question and will carefully consider any further representations that may be made to it.

CONCLUSION

Towards an Effective Race Relations Policy

128. When Parliament first legislated ten years ago to make racial discrimination unlawful, it involved for this country a pioneering and novel use of the law to deal with a new social situation which had arisen as a result of the settlement of immigrants from the coloured Commonwealth and of the difficulties they encountered. The experience of the intervening years has confirmed that the use of law to secure equality of treatment and to provide an individual remedy has lost none of its relevance. Indeed, the Government believes that the nature and scale of the problems involved gives urgency to the need to strengthen the existing legislation along the lines set out in this White Paper.

129. The Government has no wish, however, in proposing these measures to encourage a discussion of race relations solely in terms of “problems”, still less to imply that the racial minority communities who now constitute an integral part of our society are helpless victims in need of constant attention and assistance. Nothing could be farther from the truth. Teachers and social workers in areas of immigrant settlement have testified frequently in the past to the leaven of energy and resourcefulness that the immigrant communities have brought with them into our society. The Government endorses that view. That is why it believes that it is vital to our well-being as a society to tap these reservoirs of resilience, initiative and vigour in the racial minority groups and not to allow them to lie unused or to be deflected into negative protest on account of arbitrary and unfair discriminatory practices. In any full strategy for better race relations, the voluntary initiatives of the racial minority communities and their organisations will play an indispensable part.

130. Nor is it wise or fair to understate the extent of tolerance in our society. The Government is impressed by the sheer scale and diversity of the voluntary initiatives that have been undertaken in the last decade, by groups of ordinary men and women, with no reward or recognition in mind, in order to create a slightly more humane and open society in these islands. Without their spontaneous and unofficial initiatives, Government action by itself will always remain incomplete.