

Race Discrimination in the Construction Industry Inquiry Report



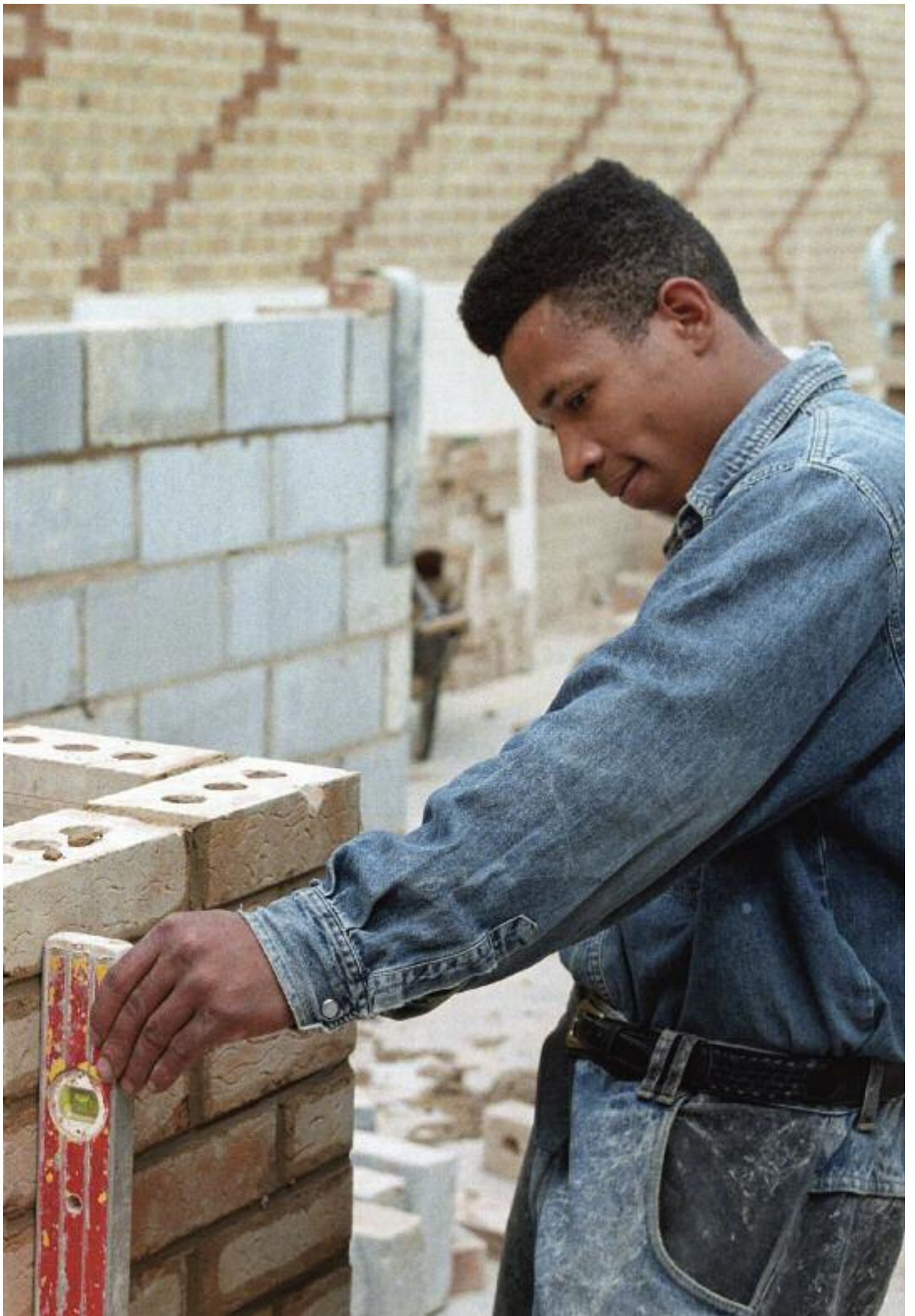
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Foreword

The construction industry (the Industry) makes a valuable and significant contribution to the British economy. In recent years it has contributed more than twice the Gross Value Added of the energy, automotive and aerospace sectors combined.¹ The built environment – the roads, houses, offices, factories, etc which represent the output of the Industry – is estimated to account for some 70% of UK manufactured wealth.² In 2008, one in 12 people employed in the UK worked in the Industry.³

In 2009 the Industry is facing some significant challenges. There is the obvious and immediate challenge of the recession and its impact on investment in construction projects, however, the Industry, along with many others, is also facing the longer term challenge posed by the changing nature of the British workforce.

The Industry would benefit and remain competitive if it keeps pace with demographic changes – which suggest that by 2010 only 20% of the workforce will be white, non-disabled men under 45. The proportion of non-white ethnic minorities currently working in the Industry is only 3.3%, compared with 7.9% of the total active population.

In January 2009, when the Commission launched its Inquiry into racial discrimination in the Industry, it identified the key question as being:

Why is there an under-representation of non-white ethnic minority workers in the construction industry, and what should be done about it?

The Inquiry has provided us with an overview of the situation in the Industry and in the next phase we will be examining in greater detail some of the key issues which emerged through engagement with the Industry and interested stakeholders.

Our Inquiry Report highlights that the reasons for under-representation of non-white ethnic minorities in the Industry are to a significant extent the same as those which were identified over 10 years ago. In 1999 a report produced by Royal Holloway, University of London for the Construction Industry Training Board⁴ identified the under-representation of non-white ethnic minorities as a significant issue.

¹ Office for National Statistics (ONS), Annual Business Inquiry 2006, November 2007, reported in BERR Select Committee Report, *Construction Matters*, July 2008.

² ONS, Annual Business Inquiry 2006, November 2007, reported in BERR Select Committee Report, *Construction Matters*, July 2008.

³ Royal Holloway calculations based on Labour Force Survey 2008.

⁴ *The Under-representation of Black and Asian People in Construction*, report prepared for the Construction Industry Training Board, 1999.

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There are best practice examples in the Industry of where organisations are making the best use of skills and talent in the UK. However there is clearly more that can be done. The Industry itself is best placed to establish and sustain good practice in improving representation. Our Report presents a call to action to the Industry to address the causes of under-representation and the continuing discrimination taking place in parts of the Industry.

Our Report also represents a challenge for the Commission. That challenge is how to build on and increase the impact of the work already done by the Commission in relation to the Industry, in particular through its work on regeneration and the procurement process.

A further issue is how the Commission recognises the good work being done by some in the Industry while ensuring that those who do not comply with the requirements of Equalities Legislation are penalised appropriately.

I am extremely pleased that I have been asked to play a role in meeting these challenges. Over the next few months the Commission will be engaging with key stakeholders in the Industry to develop our strategy for meeting the challenges posed by the findings of this Report.

I am very grateful to all those individuals and organisations who have given evidence to the Inquiry. The experiences of those involved in the Industry have been invaluable in informing our Report.

I would also like to thank all the Commission staff involved in the Inquiry, in particular the Senior Inquiry Officer Jennifer Platt, the Project Manager Alison Burns, and Melanie Staton the Project Administrator. In addition I would like to thank Canute Simpson who has acted as a consultant to the Inquiry and June Jackson of Equality Research and Consulting Limited.

Kay Allen, Commissioner

Introduction

The construction industry (the Industry) is a significant contributor to the British economy. In 2008, one in 12 people employed in the UK worked in the Industry.⁵ Despite the current economic climate there is a continuing need for the Industry to ensure it is attracting the best candidates from diverse backgrounds. Even in the current economic climate ConstructionSkills – the organisation responsible for tackling the skills and productivity needs of the Industry – has identified that there will be a demand for skilled workers to join the Industry at an average rate of 37,000 per year between 2009 and 2013.

Despite the substantial efforts made by ConstructionSkills and Industry partners, there are still significantly fewer non-white ethnic minority workers in the Industry compared to the workforce as a whole. The 2008 Construction Statistics Annual⁶ compiled by the Department for Business, Industry and Regulatory Reform (BERR)⁷ shows that for the first quarter of 2008 only 3.3% of those employed or self-employed in the Industry were from non-white ethnic minorities, compared with 7.9% in the total active working population.

The purpose of our Inquiry

On 3 December 2008 the Equality and Human Rights Commission (the Commission) announced that it would be launching an Inquiry⁸ into Race Discrimination in the Construction Industry in Britain. That Inquiry was launched on 30 January 2009.

The central question for the Inquiry was: **why is there an under-representation of non-white ethnic minority workers in the construction industry, and what should be done about it?**

The scope of the Inquiry

The Inquiry's terms of reference were:

- To inquire into barriers to the entry of and retention of non-white ethnic minority workers (which includes employees and self-employed contractors) in the Industry.
- To identify examples of good practice in encouraging ethnic diversity in the Industry and the benefits derived from such good practice by the firms and workers involved.
- To assess and analyse the differential impact of job losses in the Industry.
- To make such recommendations as are appropriate.

⁵ Source: Royal Holloway calculations based on Labour Force Survey 2008.

⁶ ONS: Construction Statistics Annual 2008, Table 12.7.

⁷ Now the Department for Business, Innovation and Skills (BIS).

⁸ This is an Inquiry under section 16 of the Equality Act 2006.

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When we refer to ‘workers in the Industry’, we mean anyone working in the Industry, including in the trades, crafts and professions, and those in technical and administrative roles. ‘Workers’ are employees, self-employees and sub-contractors.

For the purposes of this Inquiry we are focusing solely on non-white ethnic minorities. As such, this term will be used throughout this Report. As set out in our Interim Report, this means that the Inquiry is not looking at the recruitment of white ethnic minority workers in the Industry or migrant workers from European Union accession countries.

Methodology

Phase 1 of the Inquiry took place during February and March. At the end of March, we produced an Interim Report which explained the work done so far and the emerging findings.⁹ Phase 2 of the Inquiry took place between April and July 2009, culminating in this Inquiry Report.

The evidence gathering for the Inquiry took a number of forms:

Commissioned research

A thematic review of research relating to the issue was commissioned from Equality Research and Consulting Limited (EQRC), part of Royal Holloway, University of London.

ICM Research Limited was commissioned to carry out a survey that focused on the perceptions of the Industry among non-white ethnic minority groups and white respondents.

Evidence-gathering

- A Call for Evidence from various groups in or relating to the Industry.
- On-the-record evidence-gathering interviews with 63 witnesses from the Industry.
- Stakeholder meetings with key organisations in the Industry.

The methodology for the Inquiry is set out in greater detail in Appendix 1 to this Report.

⁹ Interim Report available at: www.equalityhumanrights.com

About this Report

There are four parts to the Report:

Part One

Context – the Industry and the representation of non-white ethnic minorities

This part provides an overview of the Industry, focusing on levels of representation of non-white ethnic minorities in the Industry, and highlights the challenges in capturing an accurate picture of the Industry and the position of non-white ethnic minorities within it. It also looks at the impact of the recession on the Industry.

Part Two

The causes of the under-representation

This part sets out our findings about the factors which contribute to the under-representation of non-white ethnic minorities in the Industry. We consider barriers to entry and retention, levels and experiences of discrimination within the Industry, and examine the validity of the claim that the under-representation is primarily a result of negative perceptions of the Industry among non-white ethnic minority workers.

Part Three

Good practice and the impetus for change

This part identifies practical steps which have already been taken to tackle each of the barriers identified in Part Two. It also looks at the business case for diversity and the role of public sector procurement and legal enforcement in tackling under-representation.

Part Four

What next?

This part sets out the Report's conclusions and recommendations, including recommendations for Commission action.



Part One

Context – the Industry and the representation of non-white ethnic minorities

This part of the Report consists of four chapters which set the scene for the findings in subsequent parts of this Report:

Chapter 1: The structure and nature of the Industry reports our findings about the characteristics of the Industry, which contributes to an understanding of why under-representation has persisted despite having been recognised at least 10 years ago¹⁰ as an issue to be addressed.

Chapter 2: Levels of representation records our findings on the extent of the under-representation of non-white ethnic minority workers in the Industry across England, Wales and Scotland. It reveals the concerns of some witnesses to the Inquiry about the accuracy of available data about the Industry.

Chapter 3: Monitoring on the basis of ethnicity looks at the extent of ethnic or general workforce monitoring within the Industry and the impact of current failures to monitor the accuracy of data about the Industry's workforce.

Chapter 4: The impact of the recession on the Industry looks at what we know so far about the effects of the current economic climate on the Industry and whether there is evidence of any differential impact on non-white ethnic minority workers in the Industry.

The **Key Findings** from this part are:

- The breadth of roles, skills and bodies within the Industry and its fragmented nature make it difficult to gain a comprehensive picture, particularly in relation to its workforce.
- The casual and transitory nature of much employment in the Industry makes it difficult to accurately capture information about those who are working in the Industry.
- Although the representation of non-white ethnic minorities differs significantly in different parts of Britain and in different parts of the Industry, the overall picture is of consistent under-representation relative to local non-white ethnic minority working populations.

¹⁰ *The Under-representation of Black and Asian People in Construction*, report prepared for the Construction Industry Training Board by Equal Opportunities Consultancy Group, March 1999.

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- There is a lack of understanding and limited effective use of diversity monitoring in the Industry. However, there are some projects which are using monitoring successfully.
- There is limited information about the effect of the recession on non-white ethnic minorities in the Industry. At this stage it does not seem to be adversely affecting non-white ethnic minority communities more than white communities.

Chapter 1

The structure and nature of the Industry

In the terms of reference for the Inquiry it was made clear that we would be looking at the issue of under-representation of non-white ethnic minority workers in the Industry and that both ‘workers’ and ‘Industry’ would be given broad meanings:

When we refer to ‘workers in the construction industry’, we mean anyone working in the Industry, including in the trades, crafts and professions, and those in technical and administrative roles. ‘Workers’ are employees, self-employees and sub-contractors.¹¹

Understanding the structure of the Industry, the range of jobs within it and the nature of employment patterns is important to developing an understanding of why under-representation of non-white ethnic minority workers persists in the Industry. In this chapter we set out our findings about these issues and what witnesses have told us about the effect of the Industry's nature and structure on that under-representation.

Overview

A combination of deregulation, reduced trade union influence and changing contracting practices have led to a large but fragmented Industry, substantially project-based, reliant on sub-contracting – including labour-only sub-contracting – and an increasingly casual workforce. There is some evidence that there is a substantial informal economy operating. We have heard some evidence to suggest that this has weakened the relationship between the Industry and the development of its workforce.

During our Inquiry we have received evidence which suggests that the fragmented nature of the Industry contributes to the persistence of the under-representation of non-white ethnic minorities in its workforce.

Rather than being widespread and joined up, the existence of good practice mirrors the structure of the Industry itself. For example, although there are some very positive initiatives taking place in the Industry, these seem to be concentrated in pockets: both in terms of sectors of the Industry and in terms of geographical regions. The fragmentation also means that identifying Industry-wide leadership which could provide the standards for others to follow is more difficult. We discuss this topic below.

¹¹ Terms of Reference of the Inquiry as advertised in the *London Gazette* on 30 January 2009.

Contractual arrangements

The Industry itself is dominated by a relatively small¹² number of major contracting companies. However, overall, the Industry is characterised by very complex contractual arrangements with the supply chain often involving large numbers of contractors and sub-contractors, a number of which will be small – sometimes ‘micro’ – businesses.

Some witnesses have commented that because of the complex supply chains in place often main contractors will not know who is actually working on their sites. Contractors involved in large projects, for example Taylor Woodrow on the DLR 3 Car Capacity CEP project, commented that project workforces tend to fluctuate and can be difficult to keep track of. This clearly has ramifications for monitoring the diversity of workforces, an issue that we discuss in Chapter 3.

The public sector plays a huge role in contractual relationships as the Industry’s biggest client.¹³ The public sector influences the effective use of procurement as a means of changing Industry practice. This raises the question of how public authorities ensure that the effect of clauses to encourage diversity is trickled down from the main contractor to those lower down in the supply chain.¹⁴

Sectoral variation

It is important to bear in mind that the Industry spans a number of sectors – from public to private, commercial to domestic, and across activities from house building to civil engineering – and that the context in which construction firms work influences employment and contracting practice.

For example, witnesses told us that in social housing development there is more of a focus on diversity than other parts of the Industry. If a company has public sector clients it will have to operate within the context of the race equality and other equality duties which will usually involve complying with contractual requirements on diversity.

The Recruitment and Enterprise Confederation (REC) also identify that parts of the Industry tend to employ different groups of people. For example, labour for house building is often sourced locally whereas the workforce for civil contracting is more likely to be transient and move from project to project.

These variations are important to bear in mind and suggest that in identifying solutions to tackle the under-representation of non-white ethnic minority workers in the Industry, a ‘one size fits all’ approach across the Industry may be ineffective.

¹² The UK Contractors Group currently has 28 members.

¹³ Procurement is discussed in Chapter 13.

¹⁴ Ibid.

Range of jobs

The Industry is characterised by a wide range of crafts, trades and professions. The Standard Occupational Categories 2000¹⁵ related to construction skilled trades, operatives and elementary trades includes the following:

electricians
electrical fitters
steel erectors
bricklayers
masons
roofers
tilers
slaters
plumbers
heating and ventilation engineers
carpenters
joiners
scaffolders
stagers
riggers
road construction operatives
glaziers
window fabricators and fitters
plasterers
floorers and wall tilers
painters and decorators
rail construction and maintenance operatives
construction operatives
labourers in building and woodworking trades
labourers in other construction trades

On the professional side there are an equally wide range of roles including:

building engineers
architects
project managers
project safety officers
interior design
facilities managers
architectural technologists
building services engineers
plumbing and heating engineers
civil engineers
civil engineering surveyors
clerks of works
structural engineers
landscape designers
chartered surveyors
town planners

In addition there are supporting roles, for example legal advisers, administrators and accountants.

As with the sectoral variations described in the previous section, any solutions which tackle under-representation need to take into account differences between the various trades and professions.

Industry leadership

Several witnesses identified that – like the Industry itself – leadership of the Industry is fragmented.

‘... there are endless voices and lots of organisations but a lack of one sector body’

The Construction Youth Trust

¹⁵ ONS, GLA 2006 cited in *The Construction Industry in London and Diversity Performance*, February 2007. The Standard Occupational Categories are used by the ONS to classify jobs and skills. Therefore the trades, operatives and elementary trades are classified as being within the Industry.

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There is a wide range of Industry bodies and trade organisations but no single body that takes an Industry-wide leadership role. A number of government departments and agencies have a direct interest in the Industry, however, as yet there does not appear to be one single focal point of government leadership.

There is an extensive lobbying arm of the Industry. A number of unions have substantial memberships within the Industry – with the Union of Construction, Allied Trades and Technicians (UCATT) having an entirely construction-based membership. Many trade bodies and professional institutions support the workforce; for example, the Royal Institute of British Architects (RIBA) represents their membership and lobbies on issues pertaining to its membership. They also work on issues like professional development, professional recognition, training, professional support and advice, legal support – especially to do with equality and diversity – and professional standards. The Construction Industry Council (CIC) has approximately 30 full members including a number of professional Institutes.¹⁶ There are also a number of federations in the Industry, for example the National Federation of Builders, the Federation of Master Builders and the National Contractors Federation.

There are also strategic bodies, for example, the Strategic Forum for Construction, which has a remit to facilitate improvement across the Industry against a set of key targets. Their principal role is to co-ordinate, monitor, measure and report on progress under key targets. It does not act as an operational body, its strategy being implemented via Constructing Excellence, ConstructionSkills, the Construction Umbrella Bodies, National Platform and other implementation bodies together with the wider stakeholders in the Industry where appropriate. The Strategic Forum aims to maintain close relations with all relevant government departments who are consulted in line with the strategic issues being tackled by the Strategic Forum.

Several witnesses commented that it is very difficult to drive change and improvement because there is no single dominating organisation and the organisations that do exist often have a focus on lobbying for specific interests. The view was also expressed that the leadership to drive change needs to come from the public sector; and that without impetus from the public sector, the private sector will continue to operate in the most commercially viable way, whether or not that impacts positively on diversity. This is considered in more depth in Chapter 12.

¹⁶ Association of Building Engineers; Association for Consultancy and Engineering; Association of Consultant Architects; Association for Project Management; Association for Project Safety; British Institute of Facilities Management; British Interior Design Association; BRE; Building Services Research and Information Association; Centre for Education in the Built Environment; Chartered Institute of Architectural Technologists; Chartered Institute of Building; Chartered Institute of Plumbing and Heating Engineering; Chartered Institution of Building Services Engineers; Construction Industry Research and Information Association; Ground Forum; Institute of Clerks of Works of Great Britain; Institute of Highways Incorporated Engineers; Institution of Civil Engineering Surveyors; Institution of Civil Engineers; Institution of Highways and Transportation; Institution of Structural Engineers; Landscape Institute; Local Authority Building Control; National House-Building Council; Royal Institute of British Architects; Royal Institution of Chartered Surveyors; Royal Town Planning Institute; The Survey Association.

Some witnesses have commented positively about the proposed creation of the Chief Construction Officer (CCO) role as a way of bringing the Industry together. Government consultation has taken place about this role. The consultation suggested that the role and remit of the CCO would be to act at a senior level as ‘champion’ of the sector and to provide a single point of engagement between the Industry and the public sector. The post-holder would also have operational involvement in policy and regulatory matters across departments. At the time of writing, the Government is considering submissions, and as yet no date has been set for a decision about whether this role will be created.¹⁷

Nature of employment patterns in the Industry

Employment structures and practices in the Industry differ from those in many other sectors of the British economy with significant levels of self-employment, a lack of direct employment and greater reliance on temporary and casual labour provided through employment agencies and labour-only sub-contractors.

Lack of direct employment and casualisation

We heard consistent evidence about the lack of direct employment in some parts of the Industry. Direct employment among the major contractors (with a few exceptions) is usually concentrated at managerial and senior levels.

The Industry has been described to us as mobile, transient, nomadic and project-based. One witness referred to the rail construction part of the Industry as comprising ‘a transient mob’. Another witness in the rail construction sector described the Industry as ‘lumpy’, ie that you ‘do a bit, then you do, then you don’t and it is very costly to keep directly employed’.

UCATT reported that there are high numbers of temporary workers, describing this as the increased ‘casualisation’ of the Industry. They identified that there are many labour-only sub-contractors and operating gangs who supply labour across the Industry. UCATT believes that the lack of direct employment in the Industry translates into short-termism and a disincentive to train the workforce. They feel that employers do not have an incentive to invest in their workforce. Because of the casualised nature of the Industry there is a fear that if you invest in training someone, you will lose them after the training has finished, thus wasting resources.

Some witnesses explained that the casualisation of the workforce is simply a consequence of the project-based nature of work in the Industry – employers do not want to have to carry the costs of directly employed labour between projects. This is another demonstration of the commercial imperative in action in the Industry, something we discuss in Chapter 12.

¹⁷ BERR’s Chief Construction Officer discussion document available at: <http://www.berr.gov.uk/files/file50091.pdf>

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The Scottish Building Federation commented that the frequently changing personnel on-site created a lack of continuity and a lack of time for people to become accepted among their colleagues. If people are changing day by day there is less opportunity to break down barriers. One witness described that the nature of the Industry is such that workers are often wanted at very short notice which does not lend itself to recruitment methods that will open up the Industry.

The picture is not uniform across the Industry, however. The CIC identified that employment structures differ between the trades and the professions. On the professional side there is far more direct employment and only small volumes of sub-contracting.

The REC also identified the use of labour-only sub-contractors and commented that there is a much more casualised workforce in the Industry than in other industries. They noted that the nature of the work does not always fall easily into defined legal categories; and that false self-employment can more easily arise. It can be difficult to make the distinction between genuine and false self-employment because the nature of the work can mean that one day a worker is under someone's control and the next day he is not.

Self-employment

There are many small businesses operating in the Industry and high levels of self-employment¹⁸ (approximately 40%).¹⁹ Many of these are very small businesses: research conducted in the context of a report produced by the Mayor of London and the London Development Agency (LDA) shows that small firms with fewer than 14 workers represent 94% of the Industry in Britain and employ 39% of the workforce carrying out 20% of the work.²⁰

Some witnesses reported that the prevalence of small businesses in the Industry makes the breaking down of barriers for non-white ethnic minorities more difficult. Witnesses commented that it is easier to influence large contractors but filtering good practice on diversity down into small businesses is much more difficult.

UCATT believes that the official statistics under-represent the volume of non-white ethnic minorities in the Industry. Anecdotally a number of witnesses expressed the view that non-white ethnic minorities may tend towards setting up their own businesses rather than 'mainstream' construction. This will have an impact on their representation in official statistics because they are less likely to be included in official statistics. The Black Training and Enterprise Group (BTEG) reported a growth in small ethnic minority

¹⁸ *The Construction Industry in London and Diversity Performance*, February 2007 stated that small firms with fewer than 14 workers represent 94% of the construction industry in Britain.

¹⁹ Memorandum by Professor Linda Clarke for the Select Committee on Economic Affairs, December 2007 stated that about 40% of the construction workforce or 700,000 workers out of 1.8 million are classified as self-employed.

²⁰ *The Construction Industry in London and Diversity Performance*, February 2007.

construction companies which is developing in response to a feeling among non-white ethnic minorities that mainstream construction is a ‘closed shop’.

Informal practices

A number of witnesses told us that the Industry seems to operate in large part by the use of informal networks, on a ‘who you know’ basis.

The REC commented that the Industry’s structure lends itself to the informal economy. The Industry has been identified by Her Majesty’s Revenue and Customs as high risk in terms of non-compliance for tax purposes.²¹ The CIC suggested that there may be significant numbers who are not part of the ‘bona fide’ Industry or ‘bona fide’ trade organisations: the rogue traders. Many of these will be operating in the ‘informal’ economy. The nature of the work can make it difficult to know where the line between what is legitimate and what is not ought to be drawn. For example, where is the line between someone doing their own building work and small scale contracting? A number of witnesses referred to the informal economy in the Industry, ie that which operates outside normal business structures like the UK tax regime. This includes those working on a ‘cash in hand’ basis. UCATT have produced a report, *The Evasion Economy*,²² identifying the levels of false self-employment in the Industry.

The CIC commented that it is very difficult to ‘get to’ some parts of the Industry with vast parts of the Industry not being regulated at all. This context therefore makes it difficult to monitor or evaluate workforce patterns and practices and ensure that equalities legislation is understood and complied with.

Conclusions

It is difficult to gain a true picture of the Industry because of its fragmented and complex nature. At the same time, we have identified that this fragmentation creates barriers to a unified Industry approach to diversity. There is not a joined up approach or a ‘sectoral or Industry standard’. As a result, tackling under-representation is more difficult and examples of good practice are not spread across the Industry but concentrated in pockets.

The project-based nature of work in the Industry and the increasingly casual nature of employment may also act as a systemic barrier for non-white ethnic minority people entering the Industry, encouraging the persistence of informal recruitment methods. These issues are considered in greater depth in Chapter 8.

²¹ The Construction Industry Scheme (CIS) was introduced in 1972 as a special tax deduction scheme providing a framework for deducting tax at source for certain payments relating to construction work. It was designed to counter the perceived informal economy.

²² A UCATT Report: *The Evasion Economy – False self-employment in the UK Construction Industry*, Mark Harvey and Felix Behling.



Chapter 2

Levels of representation

This chapter reports the statistical and other evidence about the level of under-representation of non-white ethnic minorities in the Industry at both national and regional levels. It also reports some evidence given to the Inquiry which questioned the accuracy of the picture of the Industry which these statistics present.

Overall

The National Labour Force Survey indicates that for the first quarter of 2008 across Britain, 3.3% of the Industry workforce²³ is made up of people from non-white ethnic minorities. The total active working population in non-white ethnic minority communities across Britain is approximately 7.9%. In each of Scotland and Wales around 1% of the Industry workforce is from non-white ethnic minorities (the non-white ethnic minority active working populations of both Scotland and Wales are around 2%).

Variations across the range and seniority of jobs

In Chapter 1 we highlighted the broad range of jobs which the Industry covers. We were interested in finding out how levels of under-representation of non-white ethnic minority workers varied across that range of trades and professions.

The research report *South East Excellence Equality and Diversity Research*²⁴ looked at the built environment professions. Statistics in the report, taken from the Office for National Statistics for 2002–03 regarding the representation of non-white ethnic minorities show that non-white ethnic minorities made up:

- 1.5% of managers in construction
- 5.5% of civil engineers
- 3.5% of architects
- 4.5% of town planners
- 2.8% of quantity surveyors
- 3.2% of chartered surveyors
- 5.5% of architectural technologists

This sort of detailed information is not readily available on a national basis, requiring specific analysis from several different data sources. The Commission has commissioned analysis of the relevant data which will enable assessment of the level of change in the past six years. The full statistical research report will be made available on the Commission's website.

Some witnesses told us of their concerns that non-white ethnic minority workers are concentrated in lower skilled, low status roles:

²³ Who may be employed or self-employed in the Industry.

²⁴ Produced by Ann Marie Consulting, 29 February 2008.

The Black Training and Enterprise Group (BTEG) expressed concerns that even where there can appear to be good representations of non-white ethnic minority people, this often masks the fact that they are concentrated at lower levels of pay and seniority rather than being well represented at all levels.

The Union of Construction, Allied Trades and Technicians (UCATT) identified that there might be higher concentrations of non-white ethnic minorities in the less skilled jobs, but that these are hidden because some jobs are not always identified as Industry roles by official statistics, for example waste management workers on sites. As a result, there might be higher concentrations of non-white ethnic minorities than the official statistics suggest.

There is a lack of direct national statistical evidence with which to test the evidence of these witnesses. However, individual research studies²⁵ do support this conclusion.

The Inquiry also heard evidence which suggested that it is harder for non-white ethnic minority workers to progress and gain promotion in the Industry which might tend to support the views put forward by UCATT and BTEG. This is dealt with in Chapter 9 of this Report.

Training and apprenticeships

The extent of representation of non-white ethnic minority trainees on construction-related courses is particularly significant in assessing the accuracy of suggestions put forward by some witnesses that non-white ethnic minority workers are not interested in joining the Industry (sometimes known as the ‘supply-side argument’, which we examine in greater depth in Chapter 5).

Research from ConstructionSkills indicates that in England 7% of students in training on construction-related courses are from non-white ethnic minorities.²⁶ This is significantly higher than their 3.3% representation in the Industry workforce and is closer to the 7.9% representation of non-white ethnic minority workers in the working population.

Information provided by specific educational establishments also suggested that the percentage of non-white ethnic minority students was higher than the national average for the current Industry workforce:

- At Oldham College there are around 12% non-white ethnic minority students on construction-related courses.²⁷

²⁵ For example Byrne, Clarke and Van Der Meer describe vertical segregation in their paper *Gender and ethnic minority exclusion from skilled occupations in construction: a Western European comparison 2005*.

²⁶ Figures provided by ConstructionSkills for 2008: *Training and the Built Environment Report 2008*.

²⁷ Figures provided to us by Oldham College for 2008.

- Bolton College has 9.2% representation among non-white ethnic minorities across courses for brickwork, timber trades, electrical, plastering, gas, plumbing, heating and ventilation and painting and decorating.²⁸ The proportion of non-white ethnic minorities in the population of Bolton is around 11%.²⁹
- Colchester Institute operates in an area with a small non-white ethnic minority population of between 2–3% of the local population. However, the college achieves between 3% and 4% non-white ethnic minority representation on construction-related courses, with retention rates broadly the same for white and non-white students. Retention on non-construction-related courses across the college are lower.

We were told by witnesses that there are different levels of representation on different training courses. For example, Oldham College has greater representation of non-white ethnic minorities on plumbing and electrical courses. Bolton College has the highest rates of applications from non-white ethnic minority would-be students for its construction-related courses in plumbing.³⁰ It is unclear what the reason for this is. Some witnesses suggested that some courses were traditionally more popular with some non-white ethnic minority groups than others.

Where ethnicity is monitored for some of the professions, the numbers of non-white ethnic minorities are generally low.³¹

- Electrical engineering courses at university level had the highest levels of non-white ethnic representation and landscape courses had the lowest.
- The percentage of Black/Black British entering schools for architecture is 3.9% with 2.5% passing part 1. However, the percentage of Asian/Asian British entering schools for architecture is 8.4% with a pass rate for part 1 of 4.6%.³²

There is no significant difference in drop-out rates among non-white ethnic minority students on construction-related courses and their white counterparts. In fact drop-out rates among white students are sometimes higher, for example the National Construction College statistics indicate that the drop-out rate is 13.3% for non-white ethnic minority students compared to 22% for white students.

Regional variations

Levels of representation differ significantly in different parts of Britain. In part this reflects the variations in representations of non-white ethnic minority workers in regional populations. Many witnesses made this point to the Inquiry:

²⁸ Figures provided to us by Bolton College.

²⁹ Planning Research: People in Bolton Factfile no.2 Ethnicity and Religion 2008 (available at: www.Bolton.gov.uk).

³⁰ Figures provided to us by both Oldham and Bolton Colleges which are kept for their own monitoring purposes.

³¹ This is supported by research published by CABE in 2005: *Minority ethnic representation in the built environment professions*.

³² All statistics are taken from *Gathering and Reviewing Data on Diversity within the Construction Professions* – report for the CIC Diversity Panel by the University of the West of England, Bristol Department of Architecture and Planning, May 2009.

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- A witness operating in the South East highlighted the difference in representation of non-white ethnic minorities in London and other areas in which they work, for example Essex, Dorset and Hampshire.
- A witness from Norfolk highlighted that there are less than 1% non-white ethnic minorities in Norfolk.
- A Welsh witness commented that they had recently relocated their head office from the South Wales Valleys to Cardiff. While situated in the South Wales Valleys they were not getting applications from non-white ethnic minorities because of their lower representation within the population generally in the geographical area.
- Despite efforts in the Scottish Borders to increase the non-white ethnic minority representation, no increase has been noted.³³

It would seem that the very low representation of non-white ethnic minorities in the population in certain regions may explain why the representation is low in the Industry in those regions.

One witness raised the issue that some parts of the Industry recruit from specific areas of the country. As a result, representation is affected by the size of non-white ethnic minority communities in those areas. For example the rail sector traditionally recruited from Crewe, York, Doncaster and part of North London – which were not historically populated by non-white ethnic minorities. This is a factor in understanding under-representation in sub-sectors of the Industry and on a regional basis.

London is one area where the percentage of non-white ethnic minority workers in the Industry is far higher than the national average of 3.3%. Olympic Delivery Authority (ODA) statistics give ethnic breakdown across the UK, London and the Olympic Boroughs:³⁴

General population	White people (%)	Non-white ethnic minorities (%) ³⁵
In the UK	92	8
In London	71	29
Host boroughs for the Olympics	58	42

³³ Between 2003 and 2006 the Borders Construction Industry Forum conducted some work to promote diversity in the construction industry. A review of the 2001 census highlighted the difficulties. Non-white ethnic groups accounted for 0.55% of the population in the Scottish Borders and 0.66% in Dumfries and Galloway.

³⁴ Statistics from the Olympic Delivery Authority in 2007, available at: <http://www.london2012.com/documents/oda-equality-and-diversity/race-equality-scheme.pdf>

³⁵ Note that this includes people who are classified as Mixed, Asian or Asian British, Black or Black British, Chinese and also a small proportion (1% to 1.6% in each category) identifying themselves as 'other ethnic minority'.

In London non-white ethnic minority groups make up 14.34% of workers in construction, however this contrasts with their proportion in London's working population.³⁶ While representation in the Industry in London is therefore better than in other parts of Britain there is still an under-representation relative to the non-white ethnic minority proportion in the population in London as a whole.

In Chapter 11 we consider the extent to which this higher representation in London's construction industry is due to positive initiatives taken by the ODA and the London Development Agency (LDA) rather than a reflection of the higher non-white ethnic minority population in London.

Women

A significant number of witnesses highlighted the under-representation of women as a major issue in the Industry. They highlighted the main issue as being the fact that construction is a very male dominated environment. While this issue was outside the terms of reference of our Inquiry the evidence on this point will inform the Commission's consideration of next steps in its work with the Industry.

Accuracy of information about ethnic diversity in the Industry

As was mentioned above and in Chapter 1, some witnesses queried whether official statistics accurately reflect the representation of non-white ethnic minority workers in the Industry.

UCATT suggested that some low-skill jobs in the Industry are not captured by statistics because jobs such as waste management or on-site security are not recorded by official statistics as Industry jobs, ie they do not fall within the categories of Industry jobs referred to in Chapter 1. The suggestion is that if the information were captured it would show that the representation of non-white ethnic minority workers is actually higher than the headline figure suggests; but witnesses suggest that it would also spotlight the fact that most non-white ethnic minority workers are concentrated in low-skilled, low-paid jobs in the Industry.

There are other factors which make it difficult to say with absolute certainty whether the level of under-representation captured in the official statistics is underestimated or overstated. These include aspects referred to in Chapter 1:

- the difficulty of accurate ethnic monitoring in a very fragmented Industry
- the difficulty of identifying those non-white ethnic minority workers who may have set up their own self-employed business because of barriers to employment with existing firms
- the extent to which parts of the Industry may operate informally, and thus go unrecorded
- the lack of effective ethnic monitoring by the Industry itself. This is the topic of the next chapter.

³⁶ Memorandum by Professor Linda Clarke for the Select Committee on Economic Affairs, 18 December 2007, available at: <http://www.publications.parliament.uk/pa/ld200708/ldselect/ldeconaf/82/82we13.htm>

Conclusions

While there are questions about the absolute accuracy of official statistics, it is clear that non-white ethnic minorities remain significantly under-represented in the Industry.

There has been an improvement in non-white ethnic minority representation in the Industry since the last national research in 1999 (moving from 1.9% to 3.3%) but that improvement has not significantly changed the make-up of the workforce in the Industry.

Non-white ethnic minorities are better represented in London but, relatively speaking, remain under-represented.

There are higher numbers of non-white ethnic minorities in training than in the Industry. This suggests that under-representation may result from obstacles during the transition from training to employment. For further discussion of this issue see Chapter 7.

There are significant gaps in the statistical evidence. In particular, there is a lack of up-to-date information about non-white ethnic minority representation across the range of jobs and at different seniorities in the Industry. Achieving a fuller picture via better data collection would assist in identifying solutions tailored to particular trades, professions or promotion practices.

Chapter 3

Monitoring on the basis of ethnicity

In Chapter 2 we noted some witnesses' concerns about the accuracy of Industry-wide statistics when it comes to providing a picture of non-white ethnic minority representation in the Industry. The fragmented nature of the Industry and patterns of employment within it suggest that it may be more appropriate to monitor ethnicity at the level of firms, trades or professions within the Industry rather than on an Industry-wide basis.

Extent of monitoring

Of the witnesses who gave evidence, many of the larger organisations undertook diversity monitoring. Often this was in the context of specific projects where requirements relating to diversity had been built into the contract with a public body. The evidence we received during the Inquiry suggests that monitoring is not widespread among smaller organisations or professional bodies. We look specifically at monitoring in the professions and in training and education in this chapter.

It has been noted by a number of witnesses involved in large projects, like the Docklands Light Railway and the Olympics, that monitoring can be difficult because of the number of people coming off and on-site. It can be hard to pinpoint a static workforce and so monitoring will only provide a snapshot.

ConstructionSkills identified self declaration in monitoring as a problem. Individuals may not identify themselves as belonging to a particular ethnic category or may be wary of identifying themselves as falling into a particular category. ConstructionSkills stated that it is not always easy to monitor accurately and that the reality of representation may not be reflected in statistics and may not always reflect positive steps that have been taken to increase diversity.

The value of monitoring and the Industry's approach

Diversity monitoring can be an effective tool in assisting organisations to understand the make-up of their workforce. It can help to identify any particular needs of the workforce, and whether an organisation is attracting and retaining the breadth of talent available. That may be very important where the Industry in general, and some parts of the Industry in particular, have ageing workforces and need to look towards new talent.³⁷ For example, one witness commented that in rail construction the core of the workforce worked for British Rail and will soon be reaching retirement age.

Several witnesses commented that there may not be high levels of awareness about the business case for diversity in construction. This is an issue which we consider further in Chapter 12.

Evidence from Transport for London highlighted that monitoring needs to be done to identify gaps and problem areas to bring about change, and emphasised that it is very important to be clear about why you are doing the monitoring.

The evidence we have received in the course of our Inquiry suggests that the purpose of diversity monitoring is often misunderstood both by organisations and the individuals they seek to monitor. For example, one training provider witness commented that companies do not understand how to analyse the information they get in order to use it for workforce planning.

The lack of understanding about its benefits may lead to some reluctance on the part of organisations to carry out monitoring. Many employees seem to be reluctant to provide the information requested, possibly because they are fearful about how it will be used. Where monitoring does occur it tends to be done at the beginning of the working relationship and therefore may not pick up whether people are leaving the Industry and if so what the reasons for that might be.

Several witnesses – particularly those involved in the training or delivery of monitoring – noted that monitoring is not widespread across the Industry.

The Black Training and Enterprise Group (BTEG) commented that private companies do not tend to like monitoring but that it is more prevalent in the public sector and larger companies. BTEG said that they are not sure that people can ‘understand the rationale’ for it. They highlighted:

- the strong need to communicate and explain fully why monitoring is being done, what happens to the data and how it will be fed back to the workforce
- the key role of monitoring in focusing on the retention rates of staff; monitoring can and should be used to capture people’s real experiences of working in the Industry
- that an important element is monitoring exit interviews as a way of finding out why people are leaving the company or Industry.

³⁷ See Speech by Sir Michael Latham, DL, Chairman, ConstructionSkills, 30 January 2008. The Department for Business, Innovation and Skills are in the process of conducting a review of productivity and skills.

One witness providing training to a number of organisations commented that large companies tend to undertake monitoring but doubted whether the information collected is used effectively. She stated that it does not tend to be used in a meaningful way in workforce planning. Most of the information is used at the recruitment stage, with very little after that. This witness is of the view that if the purpose of monitoring was explained properly '95% of people' would engage with it.

Business in the Community (BITC)³⁸ identified that monitoring is often contract-led and there is therefore little consistency of approach. Often an organisation is only looking at targets for a particular project. They suggest that monitoring should be used in a more managed and controlled way. A longer-term view of monitoring needs to be fostered so that it can be used to understand the problems. They also stressed the importance of exit interviews.

Monitoring across the professions

The Construction Industry Council (CIC) recently commissioned research which found that there is a lack of diversity monitoring taking place across the professions by representative bodies in the Built Environment.³⁹ The research identified that monitoring in respect of race and ethnicity across those professional bodies is currently patchy. The focus of monitoring, where it does exist, is on women. The research compared diversity monitoring in the medical and legal professions with that in the built environment professions. The conclusion is that the built environment professions are some way behind the legal and medical professions in understanding the level of diversity of their professional membership. Only four of the professional bodies surveyed actually monitored to find out the ethnicity of their members. The CIC report identifies further that where such monitoring is taking place there is a lack of consistency in the way the information is gathered. It also highlights that some professional bodies within the Industry displayed a lack of commitment to achieving a diverse profile. The report identifies a need for:

- a proactive and mainstream stance with detailed monitoring of the Industry, and
- for the professional bodies to agree and adopt consistent methods for monitoring their members.

³⁸ BITC runs a campaign called 'Race for Opportunity' which is committed to providing employment opportunities for ethnic minorities across the UK.

³⁹ *Gathering and Reviewing Data on Diversity within the Construction Professions* – report for the CIC Diversity Panel by the University of the West of England, Bristol Department of Architecture and Planning, May 2009.

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As a result of the research the CIC has agreed to take a leading role in championing diversity monitoring across its members in the built environment professions. The CIC will gather, collate and publish diversity monitoring information on an annual basis on its website.

During our Inquiry we became aware of successful examples of monitoring and some useful learning. These are outlined in Chapter 11.

Monitoring in education and training

The Inquiry received evidence from a small number of further education colleges, some of whom highlighted that it is difficult to continue to monitor students once they have completed their course. One witness commented that there is ‘no established protocol’ about what happens in terms of follow-up when a student has left. These colleges indicated that it would be useful to be able to do so effectively, so as to be able to keep track of their destinations and whether they stay in the Industry.

As we reported in Chapter 2, there is some evidence that the proportion of non-white ethnic minority students or trainees on Industry-related courses is significantly higher than representation in the Industry itself. In Part Two we highlight evidence which strongly suggests that one of the major barriers to increasing the representation of non-white ethnic minority workers in the Industry is the difficulty of finding a placement or job at the end of training. Tracking students on Industry-related courses could provide very useful information about what happens in that transition and whether it has a disproportionate impact on non-white ethnic minority would-be entrants into the Industry.

Such tracking is dependent on the co-operation of the former students but it was also suggested by witnesses that further education colleges do not have sufficient resources to undertake follow-up with former students. Some witnesses felt that there was a need for discussion about funding a full-time resource to try and successfully track former students.

Conclusions

The evidence our Inquiry received on this topic highlighted the fact that the purpose of monitoring is not well understood in the Industry. While this is the case it will be difficult to encourage its widespread use.

That in turn will make it difficult to pinpoint with greater accuracy the factors which lead to under-representation of non-white ethnic minority workers in the Industry. This is particularly true when it comes to the absence of exit interviews to help identify why workers leave the Industry and when it comes to tracking the progress of trainees or students in the Industry once they leave further education.

There are some good examples of effective monitoring taking place and moves from some parts of the Industry to undertake more consistent monitoring. The CIC has set out that it intends to use monitoring results to measure the progress of the profession. This is a significant and positive step which needs to be adopted more widely across the Industry.

Chapter 4

The impact of the recession on the Industry

Part of the Inquiry's remit was to assess and analyse the differential impact of job losses in the Industry. We examined whether there was evidence that non-white ethnic minority workers were being hit harder than white workers by the impact of the recession on the Industry.

There can be no doubt that the current economic downturn has had a severe impact on the Industry and that it is facing a difficult time. The Office for National Statistics figures report that the UK Industry suffered over 45,000 redundancies in the three months to December 2008. The Chartered Institute of Building states that the Industry is facing its toughest challenges for a generation and that job cuts are predicted to reach 400,000 in England alone.⁴⁰

Forecasts suggest that there will be a 7% decline in output over the next three years. In the UK, construction output fell by 1.1% in the last quarter of 2008. In the third quarter of 2008 the rate of new orders fell 39% below the average of the year before. Public housing orders were down 36%, and private housing orders were down 62% on the average of the year before. Private housing starts fell an estimated 43% during 2008, and it is anticipated that these will fall a further 32% in 2009.⁴¹

The Recruitment and Enterprise Confederation (REC) commented that different parts of the Industry have been affected in different ways: for example, while house building has been badly affected by redundancies, large public sector projects seem to be a growing area. Therefore, there will be regional differences regarding redundancies based on the type of work that is or was taking place.

⁴⁰ Policy brief January 2009: The impact of the global financial crisis on the construction industry, Chartered Institute of Building.

⁴¹ Ibid.

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SummitSkills, the Sector Skills Council for Building Services Engineering, has recently published research on the impact of the recession on the building services sector,⁴² which found that:

- There are estimates that between 10.4% in the social housing sector and 55.75% of private housing work may be postponed or cancelled as a result of the recession and that this could lead to between 67,000 and 154,000 jobs being at risk.
- 64% of consultants thought that their workforce would expand over five years.⁴³

SummitSkills is working on a number of actions to help minimise the impact the recession might have on the sector's workforce and skills levels. These include:

- redeployment and training of redundant apprentices, ie by transferring or sharing apprentices between employers to allow them to complete their training in preparation for the upturn
- supporting employers to develop the skills of existing workers in new building services market areas
- supporting the education and training delivery infrastructure, and
- maintaining the stream of new entrants in preparation for the sector coming out of recession.

Evidence of differential impact on non-white ethnic minority workers

Given the relatively recent onset of the recession, there is limited available information about the nature of its impact and little evidence of any differential impact among ethnic groups in the Industry. For example there is no publicly available information about how many people from non-white ethnic minority groups approach Jobcentre Plus interested in jobs in the Industry. Jobcentre Plus focuses on the progression of diverse groups through the steps of their 'customer journey'. It does not focus on experiences within different sectors of the economy. Jobcentre Plus does not collect information about the sector the customer finds employment in.⁴⁴

⁴² *Impact of the recession on the building services engineering sector in 2009*. A sample of BSE consultants were interviewed to gather views on the recent economic downturn and how it may affect the sector's workload across five key work areas: private commercial; private industrial; private housing; social housing and major public works.

⁴³ Fifty-six consultancy companies took part in the research including single site and large multi-site companies.

⁴⁴ Written submission to the Inquiry from Jobcentre Plus.

As witnesses to the Inquiry have pointed out, one difficulty is how to measure the impact in an Industry where working patterns are often casual and don't fall within statutory definitions of 'employment'. Simply looking at how many redundancies have been made in the Industry will not capture people who may not be 'redundant' within the legal definition,⁴⁵ but who have nevertheless lost work. This would include self-employed people and agency workers.

The Union of Construction, Allied Trades and Technicians (UCATT) commented that redundancy figures do not give an accurate representation of job losses in the Industry. They suggested that most building company redundancies have occurred outside the 'construction trades', for example among administrative staff. Few construction workers are directly employed, so will not be technically redundant. Similarly some may not be in formal employment; so they may be apparent in unemployment statistics but not redundancy statistics.

The Inquiry has identified no statistical evidence which clarifies whether the recession is having a differential impact on non-white ethnic minority people in the Industry. We are not aware of any statistics about redundancies in the Industry that are broken down by ethnic group.

However we have received a small number of responses that address the impact of the recession on workers in the Industry.

One witness Law Centre cited an example of someone being made redundant in close proximity to having raised a complaint of race discrimination, in circumstances where the redundancy does not appear to them to be genuine.

Most of the responses we received on this issue suggested that if there is a disproportionate impact on non-white ethnic minorities, it would be linked to systemic factors, for example:

- One witness felt that prior to the recession non-white ethnic minority people were losing out to migrant EU labour.
- Some concerns have been raised that the recession might adversely affect non-white ethnic minorities, as they do not necessarily have the networks in place to find alternative work in the Industry if they lose their current work and may already be excluded by some practices such as word of mouth recruitment.

⁴⁵ Section 139 Employment Rights Act 1996: an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was employed or
- the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish.

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- Another witness commented that word of mouth was operating in the context of reallocating people who are going to be made redundant. Again, this may adversely affect those without networks of contacts in the Industry, which may be more likely to be the case for non-white ethnic minority workers.

The points above reflect the Inquiry's findings about the impact of word of mouth recruitment practices in the Industry generally, which is reported in Part Two of this Report.

Initiatives which have been taken in recent years to increase diversity have resulted in some new non-white ethnic minority entrants to the Industry. Some witnesses also believe that the recession is leading to cuts in those initiatives, and this will adversely affect diversity.

Additionally, those new entrants are potentially the most vulnerable to the recession.

Witnesses thought that some pre-training, training and apprenticeship places were being reduced. There is a fear that some of the inroads that have been made in increasing diversity may be thwarted if the newer people to the Industry are lost.

The Building and Construction Industry Forum commented that a short-term view is being taken at the moment in response to the economic situation, which is leading to some new entrants being laid off.

One witness expressed concern that in London, large construction companies may bring in staff from other parts of the country to avoid having to make people redundant. This witness thought that it might have an impact on non-white ethnic minority groups because they are concentrated in London. They commented that this was happening before the recession and so the sense is that it will become a bigger issue as the recession bites. The witness felt that historically recessions have impacted more on non-white ethnic minority communities and therefore could not see 'why it would be different' this time.

Another witness suggested that in the current climate, recruitment is often internal, because companies are trying to avoid making redundancies by redeploying people, which in turn maintains the status quo on representation.

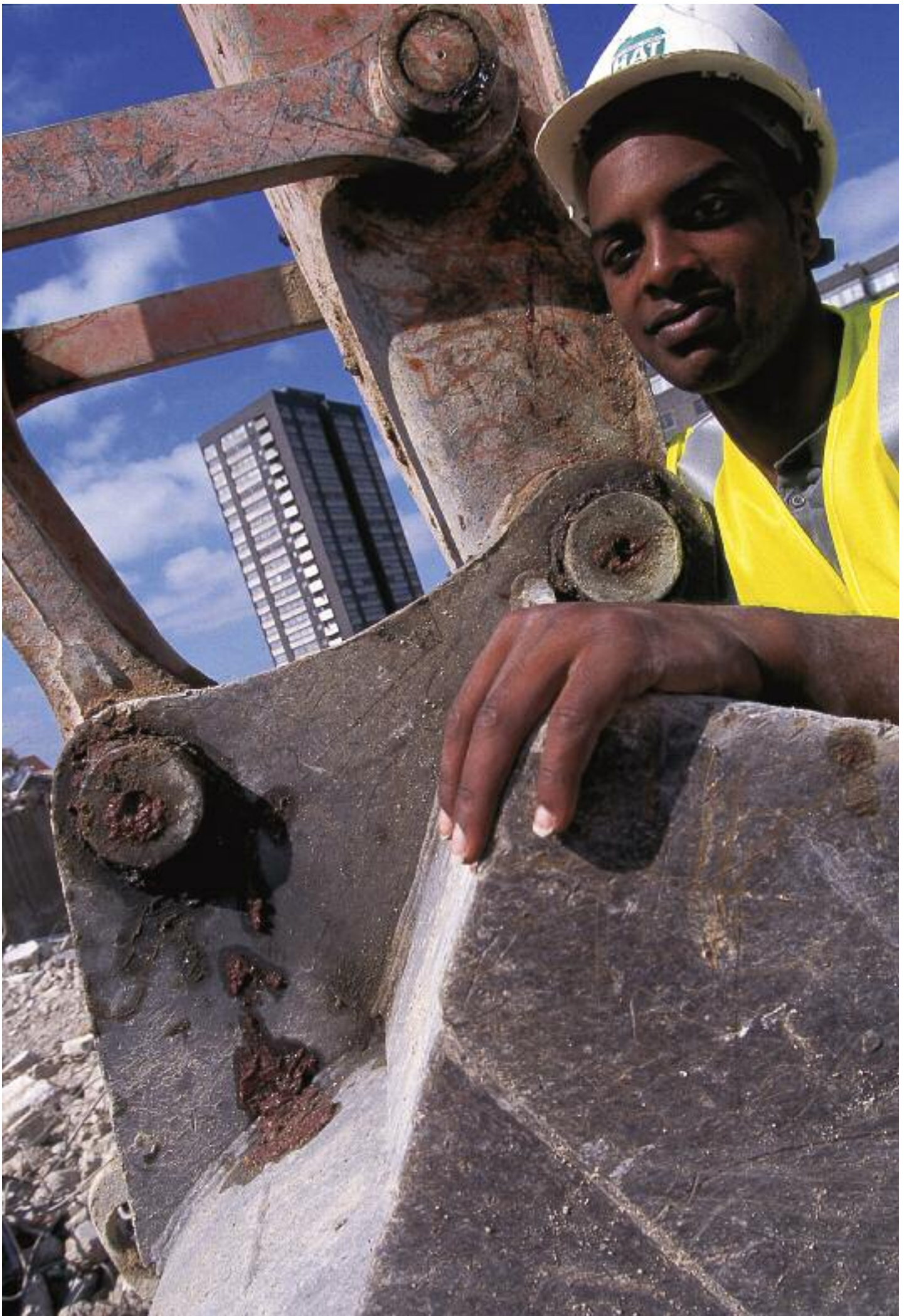
A different perspective from one witness suggested that the recession may have an impact on employment patterns in the Industry. In the 'boom time' people could jump around to whichever job paid the most money. When times are bad people tend to stay quiet and hope that they don't get moved. The construction companies that survive through the recession may find they have a fixed workforce. This may offer a new opportunity to improve and develop staff. However, the witness predicts there may be a fear that when the recession ends new players coming into the market will poach staff.

Conclusions

In summary, there is insufficient evidence to judge whether, at this stage, the recession is having a differential impact on non-white ethnic minorities in the Industry. There is a lack of information currently available that is sector-specific or analysed by reference to ethnic group.

Some witnesses did suggest that there are factors which could work to disadvantage members of non-white ethnic minority communities, particularly if new recruits are disproportionately affected by redundancy or apprentices are laid off. One of these factors is the greater difficulty which non-white ethnic minority workers might experience in finding alternative work in the Industry if made redundant. That factor is a reflection of one of the major barriers to increasing representation of non-white minority ethnic workers in the Industry, namely word of mouth and other informal recruitment practices.

It is important that the Industry keeps under review its practices in terms of selecting for redundancy, or for laying people off who may not be 'technically redundant', to ensure that they are not having a disproportionate effect on non-white ethnic minorities.



Part Two

The causes of the under-representation

This part of the Report sets out our findings about the causes of the under-representation of non-white ethnic minorities in the Industry. It consists of six chapters.

Chapter 5: Awareness and perceptions of the Industry considers the impact of these factors on the level of representation of non-white ethnic minority workers in the Industry.

Chapter 6: Training and education assesses some of the features of training and education that may be having an impact on non-white ethnic minority workers entering the Industry, thereby contributing to under-representation.

Chapter 7: Apprenticeships and the transition from training to employment considers the role of apprenticeships in recruiting non-white ethnic minority workers to the Industry and assesses aspects of apprenticeships which may be disadvantaging non-white ethnic minorities. It also considers the role of apprenticeships in the light of the creation of the National Apprenticeship Service.

Chapter 8: Recruitment and contracting practices assesses the practices prevalent in the Industry and whether they have a disproportionate impact on non-traditional entrants.

Chapter 9: Barriers to retention looks at the reasons why non-white ethnic minority workers may not stay in the Industry for the longer term.

Chapter 10: Unlawful race discrimination reports the experiences of witnesses and assesses the nature and levels of race discrimination in the Industry.

The **Key Findings** from this part are:

- There are many and varied barriers to entering the Industry. Those that stand out most and were mentioned by a majority of witnesses are the image and perceptions of the Industry, and the lack of awareness among people in general and non-white ethnic minorities in particular, about the range of opportunities available. Our Inquiry found that although some members of non-white ethnic minority communities have some negative perceptions of the Industry, their level of interest in the Industry is slightly higher than that of white people.
- There is a prevalence of word of mouth recruitment. This is a significant barrier to increasing the diversity of the workforce, which would benefit from more open recruitment practices.

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- Some witnesses felt that training needs to be more relevant. There exist some skills gaps in areas where there are significant volumes of construction taking place.
- Many witnesses felt that careers guidance about the Industry is inadequate.
- There was a consistent view from witnesses that there are insufficient numbers of apprenticeships.
- Apprenticeships based on securing an employer from the start ('ready matching') are problematic for non-white ethnic minority candidates because such matching is often done by word of mouth, and they may also face difficulties completing programme-led apprenticeships because of a lack of established networks from which to secure work placements.
- Significant barriers to retaining non-white ethnic minority people in the Industry include the lack of job or career progression and negative experiences at work.
- Overt racism is still present in some parts of the Industry, most commonly in the form of racist 'banter'. Although the vast majority of witnesses felt that this has improved in recent years, there are still pockets where race discrimination exists. In some parts of the Industry racist 'banter' is an accepted part of the culture.

Chapter 5

Awareness and perceptions of the Industry

A strong theme within the evidence concerned the poor image and general lack of public awareness about the Industry. Many witnesses shared with the Inquiry their perception that members of non-white ethnic minority communities have negative views about the Industry.

Previous research⁴⁶ and evidence to this Inquiry has asserted that non-white ethnic minorities may not want to enter the Industry, suggesting for example that:

- Industry jobs simply lack appeal for this group
- the Industry is not seen as prestigious
- it is perceived as racist and therefore off-putting
- there is a lack of awareness of what the Industry can offer by way of a career.

‘Different communities, for example on a regional or local basis, do not have a real idea of what the Industry is like, they hear rumours and reported experiences which may or may not be true. These can influence people’s decisions.’

A witness working in a Local Authority

One of the issues for the Inquiry is the extent to which it is the case that non-white ethnic minorities do not want to enter the Industry (the ‘supply-side’ argument) or whether there are other factors which result in under-representation.

An Inquiry witness highlighted the need to question the validity of the ‘supply-side’ argument, commenting that there is too much reliance on the ‘myth’ that people from non-white ethnic minority communities are not interested in construction:

‘I have come across a number of myths/stereotypes about ethnic minority workers and construction careers for example “They do not want to get their hands dirty”; “They all prefer pharmacy” etc etc. I have heard comments like these from professionals in the construction industry on many occasions over the last 10 years even though there is evidence to the contrary. I believe some construction professionals try less hard when working with ethnic minority communities as a result of believing the myths.’

A witness who provides diversity training

⁴⁶ For example *The under-representation of Black and Asian People in Construction*, report prepared for The Construction Industry Training Board by Equal Opportunities Consultancy Group Royal Holloway, University of London, March 1999, suggested that some of the factors listed may put non-white ethnic minorities off joining the Industry.

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One of the key questions for the Inquiry is therefore the extent to which a lack of awareness and/or negative perceptions of the Industry among non-white ethnic minority communities contribute to their continued under-representation. The issue of awareness prompts an assessment of the prevalence of positive role models, who might encourage non-white ethnic minorities to enter the Industry.

The Inquiry examined these factors through evidence-gathering interviews and by commissioning ICM Research to carry out a survey of perceptions of the Industry among non-white ethnic minorities and among a control group of white respondents. Two separate telephone surveys were carried out with representative samples of people aged 16–64.⁴⁷ We refer to the findings of the ICM survey throughout this chapter. The full report is available on the Commission website.

The appeal of the Industry

The impression from the evidence is that the Industry is perceived to involve hard work, low pay, poor working hours and is not family friendly. The Inquiry wanted to test the extent to which this kind of perception is a factor in non-white ethnic minority under-representation in the Industry.

One witness suggested that the Industry itself has stereotypes, for example that Asian people are not interested in construction, but also felt that these are not borne out by reality.

The ICM survey revealed that the construction sector ranked as the third least appealing sector for non-white ethnic minorities. Less than half (45%) of the non-white ethnic minority people surveyed thought that the Industry had appeal as a source of employment.⁴⁸ However, this figure was actually higher than that for the white survey group (42%), where it also ranks as the third least appealing sector.

Interestingly, the survey revealed that some ethnic minority groups see construction to be more appealing than others. People who described their ethnic background as ‘other’, ‘Asian’ and ‘Black’ think that construction is more appealing than people describing their ethnic background as ‘mixed race’ and ‘Chinese’. A strong majority of these two ethnic groups described the sector as unappealing.

Non-white ethnic minority people are more likely than their white counterparts to agree that there are lots of creative opportunities in construction. Fewer non-white ethnic minorities than white people considered work in the Industry to be ‘dirty work’. This would seem to indicate that the ‘supply-side’ argument, ie that non-white ethnic minorities do not want to join the Industry, is overstated.

⁴⁷ 1,002 people from non-white ethnic minority communities were interviewed and 652 white people were interviewed.

⁴⁸ *Race in the Construction Industry Research Report*, prepared for the Commission by ICM Research, available at: www.equalityhumanrights.com

The Industry's perceived status

A view frequently expressed by witnesses was that the Industry is not considered to be a prestigious one to join. One witness went as far as to say that this negative perception is reinforced on many levels from Government down, with the Industry viewed as a 'dumping ground' for difficult young people. The Industry does not seem to be treated as something to aspire to.

A number of witnesses, especially those involved in education, reported that the idea of the Industry as less prestigious seems to be reinforced at school level, with more able students being channelled towards other sectors. We report on this in the next chapter.

Some evidence was given to the Inquiry that in migrant – including non-white ethnic minority – communities, it is not seen as 'progress' to enter the Industry. Witnesses commented that the image of the Industry needs to be marketed in a way that attracts people who are aspirational. For example:

- One witness told the inquiry that construction doesn't compete well with the 'flashier' professions.
- A Pakistani witness stated that among some people in his community construction is 'hardly recognised as a profession'.

As noted above, the ICM survey does not highlight a greater level of rejection by non-white ethnic minority people of the Industry because the Industry is unappealing. Indeed, a significantly greater proportion of non-white ethnic minority than white people consider that construction is well paid and secure (40% as against 27%).⁴⁹

The YouthBuild UK Young Builder of the Year Awards potentially indicate levels of aspiration among young people (14–25 year-olds) starting out in their training or career. These attract a relatively high number of applications from young people from ethnic minority backgrounds. Of the finalists in 2007 and 2008 28% were from ethnic minorities.

There was also some evidence of geographical variations. The Scottish Building Federation commented that although there may still be challenges, the image of the Industry has improved a lot over the past 10 years. They stated that it is now recognised as a career of choice and in Scotland there appears to be no shortage of people coming forward to join the Industry.

The overall image of the Industry

Overwhelmingly witnesses to the Inquiry identified the prevailing image of the Industry as that of a white male on a building site. The view of witnesses was that this image acts to discourage women and non-white men from considering a career in the Industry. The majority of Industry bodies saw this image as a key barrier to attracting new workers.

⁴⁹ *Race in the Construction Industry Research Report*, prepared for the Commission by ICM Research, available at: www.equalityhumanrights.com

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ConstructionSkills believes that common perceptions of the Industry include that: it is male, workers require a thick skin, it is liable to reinforce stereotypes that exist in the Industry about non-white ethnic minorities, and it displays a lack of awareness about culture and history.

‘A key problem is the image of the Industry. There exists an urban myth which it has not been possible to deconstruct. Parents, children and educators are ill-informed about construction. The Industry and schools and colleges have not worked together to promote the Industry. For the non-traditional entrant this has made it very hard.’

The Construction Youth Trust

A number of different witnesses suggested that the impact of this factor is not uniform across the range of jobs in the Industry. They commented that there is a difference between perceptions of the manual trades and the professions, with some witnesses feeling that it is more difficult to change the ‘traditional’ manual side.

We did find evidence of a negative perception of the Industry among non-white ethnic minority communities relating to the overwhelmingly white male image of the Industry. This was reflected in the ICM survey and by some witnesses.

One non-white witness to the Inquiry stated that Asian people associate the Industry with ‘white male working-class skinheads and uneducated racists’.⁵⁰

The ICM survey evidenced perceptions that racism is more prevalent in the Industry. Many people, both from white and non-white ethnic minority communities do think that the Industry is more prone to race discrimination than other sectors of the economy. A third of non-white ethnic minorities surveyed thought that they were more likely to experience racism in the Industry than in other industries.⁵¹ Just under half (47%) of this group also considered that racist behaviour was likely to go unchecked within the Industry; and 40% felt that the Industry discriminates against ethnic minorities in its employment practices.

One witness said that people are put off the Industry because of the ‘stereotypes associated with it’ and suggested that the way to dispel this is to get the right people in organisations that can act as ambassadors for the Industry.

One witness commented that it needs to be publicised to non-white ethnic minority communities that an inclusive culture is being fostered and that they will be supported in the Industry. They emphasised that it is important to have strong site leadership in this regard.

Awareness of the Industry

Awareness is seen by the Industry as a general problem affecting all ethnic groups, including white people. Witnesses suggested a lack of understanding about roles, opportunities and working life as a barrier to entry.

‘Most people do not realise the broad range of skills and opportunities available from crafts to professional and management.’

Development Director, YouthBuild UK

⁵⁰ This is an extreme view which was not mirrored by most witnesses.

⁵¹ *Race in the Construction Industry Research Report*, prepared for the Commission by ICM Research, available at: www.equalityhumanrights.com

The Construction Youth Trust expressed concern that there is a real lack of understanding about the range of options available and commented that the negative image is based on a 'stereotype that only encompasses craft/manual trades, outdoor work and a white male only culture'. The lack of understanding means that 'even professional roles are not valued by potential graduates'.

Many witnesses felt that there is a need to re-educate parents about the Industry due to their lack of understanding of the Industry.

A witness, working in the rail sector, commented that very few people know anything about rail and that it is a closed community, partly because of its lifestyle implications (for example, weekend working).

Evidence that lack of awareness is any greater among non-white ethnic minorities is not conclusive. However, there is evidence which does point to some difference in understanding. One witness commented that traditionally construction is not an Industry that non-white ethnic minority workers have been part of. However, they felt it is more the case that people in this group have never really thought about the Industry rather than that they are not interested in going into it.

'The problem is lack of understanding ... There is a lack of information, all that they had seen ... was someone working in the road, digging. Because of this understanding of construction, they had only seen people working outside, when you ask them they are not interested.'

A Somali businessman

The ICM survey indicates that the level of awareness of the types of employment available within the construction sector may be lower among non-white ethnic minority groups than in the white community. People from non-white ethnic minority groups were less able than white people to spontaneously recall specific trades and professions under the Industry umbrella.⁵²

The prevalence of role models in the Industry

Witnesses suggested that levels of awareness are influenced by the existence of people within the Industry with whom non-white ethnic minorities can identify.

A number of witnesses highlighted the need for there to be visible ambassadors for the Industry and communities and positive campaigns.

'I was fortunate enough to have people around me who were working in the Industry and I was naturally influenced by that, but I doubt that there were many others who had that kind of influence. Putting it simply if you do not see people like yourself working in all areas of a profession you are less likely to feel that there is a place for you there.'

A witness working as a senior planning manager

One witness emphasised that it is important that people who are in the Industry are given the opportunity and support to portray their experiences. Good levels of support are needed from employers to ensure that people can become involved in raising awareness in schools, colleges and universities.

⁵² *Race in the Construction Industry Research Report*, prepared for the Commission by ICM Research, available at: www.equalityhumanrights.com

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‘(the Industry) ... needs ambassadors and people selling it. Like the Premier League, the number of black players has increased. (You) need to use media to get people interested. The company directors need to be aware of the problem and try to increase the number of BMEs in construction, need positive campaigns, not blaming people.’

A Somali businessman

Another witness stressed the need for non-white ethnic minority people working in the Industry to be involved in succession planning.

‘(it is important that role models are) flags rather than tokens’.

Equality and diversity consultant

The ICM survey found that 65% of non-white ethnic minority survey witnesses agreed with the statement that there is a lack of visible role models in the Industry. They were 10% less likely than white people to have gained their information about the Industry from someone they knew within it.

Conclusions

Non-white ethnic minorities are likely to find the Industry less appealing than other industries, but no less appealing than white people find the Industry. In some ways non-white groups have a more favourable impression of the Industry than their white counterparts. This may explain their relatively higher level of entry into construction-related training, as set out in Chapter 2. It also undermines some of the supply-side argument, that people from non-white ethnic minorities are simply not interested in the Industry.

However, perceptions of white dominance and racism appear to be higher among non-white ethnic minorities; and levels of awareness of the work options within the Industry seem to be lower among non-white ethnic minorities. It seems reasonable to assume that these will act as a disincentive to some non-white ethnic minority workers to joining the Industry.

It is difficult to draw definitive conclusions from the ICM survey or evidence that the general appeal of the Industry is somehow undermined by a lack of awareness or perceptions of racism, leading to a lower level of representation. However, these aspects and the high value placed by witnesses on role models suggest areas which could be usefully addressed to increase representation.

Chapter 6

Training and education

Both the research and evidence responses suggest that training and education should better reflect the needs of the Industry and potential entrants.

Skills gaps

A small number of witnesses considered that attention was needed to increase English language skills for some groups. They suggested that this issue may not be being picked up in training and education.

Others identified that lack of suitable qualifications can often present a barrier. Transport for London (TFL) put a large focus on recruiting from local labour which can increase opportunities for non-white ethnic minorities. However, it can be the case that members of the local populations do not have the correct skill sets for the jobs in construction that they are recruiting for. TFL commented on the importance of identifying skills gaps and understanding why they exist. Local employment partnerships in boroughs where construction work is being done are very important. A key element of opening up the Industry to a more diverse workforce is the need to set out what skills will be needed before a project starts so that people have enough opportunity to acquire them. The Balfour Beatty/Carillion Joint Venture working on the

East London Line project went into colleges one year before the project was due to start in order to let people know the skills that would be needed.

The Construction Youth Trust suggested that more ‘generic’ training (so that people are able to undertake a range of tasks) may assist people in equipping them so that they can go where the demand is, for a broader range of work.

Access to the Industry

One witness commented that the ConstructionSkills Certification Scheme (CSCS)⁵³ card can act as a barrier to some people. An online test needs to be taken in order to obtain the CSCS card; the first attempt is free, however, after that applicants need to pay.

Business in the Community (BITC) commented that some people may find it difficult to understand the phrasing used and therefore may not pass the first time when the test is free. They assert that procedural issues should not unnecessarily act as barriers and should be kept under review. It may be that there is a need for more support or basic training in this area.

⁵³ ConstructionSkills Certification Scheme is used to show occupational competence of those working in the construction industry.

The role of schools and careers advice

One witness commented that the ‘school curriculum does not make all areas appeal to all people – divided on gender, stereotypes etc’. Another witness stressed the need to focus on the quality of education and attainment.

Many witnesses raised concerns about inadequate careers advice and felt that teachers and parents were ill-informed about the Industry. One witness further education college recounted an experience where a colleague in the construction department asked why a potential student with very good GCSE grades was enquiring about a construction course. Many felt that advice about construction is geared towards ‘problem youngsters’. It was also identified that sometimes teachers can serve to reinforce stereotypes, for example by sending boys on construction courses. One further education college commented that schools and careers advisers could push construction more to students and also stated that further education colleges could get out more and publicise construction.

One witness described the careers advice as being a ‘generation away from reality’. ConstructionSkills comment that there is a huge weakness in the careers advice given in schools; and that schools are not encouraged to direct pupils towards apprenticeships because of the way that the funding works. There is what is described as a competition for students, ie schools get more funding the more students they have. Therefore, it is in the interests of schools to encourage students to stay at school and complete qualifications that the school provides rather than to encourage students to pursue other options.

The Construction Youth Trust suggested that as 10% of GDP is construction-related 10% of resources for careers guidance should be directed towards construction; careers guidance needs to be demand led.

The nature of training provision

Research⁵⁴ suggests that attempts to make teaching less academic and more practical may inadvertently lead to the traditional Industry culture being mirrored in the classroom, making the training less attractive for some non-white ethnic minority and female students.

However, other witnesses suggested that too academic an approach in the classroom risked alienating those students who had chosen a trade-related course because they did not like or were bored by academic teaching approaches.

⁵⁴ *Race in the Construction Industry: A Thematic Review*, Equality Research and Consulting Limited.

Tim Forrest of HT Forrest Limited stresses that the focus should be put on the vocational route to higher education. He states that employers value practical experience that can then be backed up by qualifications at the same time as working. There are vocational routes to get into the professional side of the Industry that many people are not aware of.⁵⁵

Other research reports that some higher education students (particularly architecture students) have raised concerns about the lack of value placed on non-Western approaches.⁵⁶ During the course of our Inquiry one witness described her difficulties in becoming a qualified architect in Britain although she had trained and practised as an architect in Pakistan. She described the difficulties she had faced in attempting to gain information about what she needed to do in order to be able to practise as a qualified architect in Britain. When she eventually gained the information she was told that in order to have a realistic chance of qualifying in Britain and practising in England she should do three years full time study on a British degree course. She reported that she was told that ‘cultural differences’ would make it difficult to pass the exams in Britain. In failing to recognise or have a standard approach to dealing with architects qualified outside the EU, the profession may be missing out on a wider pool of talent. It also implies a lack of value placed on non-Western qualifications and approaches.

Conclusions

Witnesses identified some areas where training and education could be improved. Training is potentially hampered by the lack of entry level skills, methods of access and the nature of training itself. Fresh approaches are being developed to tackle some of these issues.

Of considerable concern is the availability of good quality careers guidance which the Industry needs to be involved in. Training and education need to be kept under review to ensure they do not have an adverse impact on non-white ethnic minorities.

⁵⁵ Tim Forrest writing in *Construction News*, 7 May 2009 ‘SMEs are still hiring apprentices’.

⁵⁶ *Minority ethnic representation in the built environment professions*, CABE, July 2005.



Chapter 7

Apprenticeships and the transition from training to employment

There are a number of different construction-relevant apprenticeships available. The main difference between them is that some are ‘traditional’ and others are ‘programme-led’. Traditional apprenticeships are three years in length and involve four days working on-site and one day on day release at college. The focus of the traditional apprenticeship is on work-based learning. On successful completion the apprentice gains an NVQ Level 3. Programme-led apprenticeships are also three years in length. The first two years are college-based. At the end of the two years the students, if they can find a placement, complete a further 9–12 months on-site. On successful completion of the college-based element and practical placement the apprentice gains an NVQ Level 2.

The Inquiry identified that there is some evidence to suggest that gaining access to traditional apprenticeships, or to work placements within programme-led apprenticeships, may be more difficult for non-white ethnic minorities.

Apprenticeships have been the subject of some recent and proposed changes. In April the National Apprenticeship Service was set up.⁵⁷ The aim of the National Apprenticeship Service is to act as single point of contact for apprentices and employers. In addition the Apprenticeships, Skills, Children and Learning Bill 2008–09⁵⁸ proposes some significant changes which aim to increase the availability of apprenticeships. This is therefore an important time to look at opportunities to attract a broader range of people into the Industry through apprenticeships.

⁵⁷ On 27 April 2009 the National Apprenticeship Service was launched. It reports to the Departments for Innovation, Universities and Skills (DIUS) and Children, Schools and Families (DCSF). According to its website: www.appenticeships.org.uk the service aims to bring about a significant growth in the number of employers offering apprenticeships. It will assume total responsibility for the delivery of apprenticeships that includes: Employer Services; Learner Services; and a web-based vacancy matching system.

⁵⁸ <http://services.parliament.uk/bills/2008-09/apprenticeshipsskillschildrenandlearning.html>

Number of apprentices

We have heard evidence that non-white ethnic minorities are relatively well represented on apprenticeship courses. Some witnesses, including the Union of Construction, Allied Trades and Technicians (UCATT), have suggested that this is because there are higher numbers of non-white ethnic minorities on programme-led apprenticeships. ConstructionSkills provides the bulk of apprenticeships across the traditional manual trades in Britain. The most recent figures from CITB/ConstructionSkills show an increase in ethnic minority trade trainees in 2007/08 – up to 7% from 6% in 2006/07 and 5% in 2005/06. The proportion of ethnic minority trade trainees fluctuated between 3% and 7% between 1999 and 2008; the latest figures show that they stand at 7%. In 2008, 6,534 applications were received for apprentices and 345 of these were from non-white ethnic minority people.

JTL provides electrical and plumbing apprenticeships. In 2007 10.8% of applications were from non-white ethnic minority applicants. In 2008 11.8% of applications were from non-white ethnic minority applicants.

Witnesses suggested that it is important to provide support to facilitate access to traditional apprenticeships. The available statistics also seem to support the view from witnesses that a key issue for apprenticeships is the transition from training to work placements and employment.

Access to apprenticeships and work placements

Interest in apprenticeships

Some witnesses felt that the image of apprenticeships can be off-putting and that not enough information is communicated to non-white ethnic communities. As a result some parents do not see apprenticeships as a credible option for their children.

ConstructionSkills commented that it is important that apprenticeships are presented as being sufficiently aspirational, without seeming out of reach.⁵⁹

Availability of apprenticeships

A number of witnesses identified a shortage of apprenticeships and work experience. A shortage may reduce the opportunities for non-white ethnic minorities to work in the Industry, because a route of access is being cut off. UCATT argue that if a sufficient number of apprentices are not trained then achieving diversity in the Industry will be ‘virtually impossible’.

There are fewer traditional apprenticeships available and there has been more of a focus on programme-led apprenticeships, which may lead to a placement at the end. One witness commented that it is easy to get on a college course but not very easy to find a placement at the end of it.

⁵⁹ Post-campaign tracking of Positive Image campaign by ROI for ConstructionSkills.

A number of witnesses, including ConstructionSkills and UCATT, stated that there are not enough apprenticeships available. One of the impacts of the Apprenticeships, Skills, Children and Learning Bill 2008–09 will be to increase numbers. ConstructionSkills commented that it is important that employers take a greater lead on engaging apprentices. It is important to drive up the number of employers who are interested in apprentices. Some witnesses expressed concern about where additional apprentices will be placed. A number of witnesses felt that the public sector needs to take many more apprentices and that Local Authorities in particular have a key role to play and could offer very good experience for apprentices. Witnesses have stated that there is little consistency of approach between Local Authorities.

Indeed, witnesses have commented that there is no tradition of apprenticeships in the public sector, that currently Local Authorities provide very few apprenticeship places and the places where they now exist have been privatised. There was a strong feeling that there is a need to work on the perception that apprentices do not fit into the skills needs of the public sector. Many of our witnesses feel that this is where the burden should lie.

UCATT raised their concern that there are insufficient apprentices on the publicly funded Olympic projects. They propose that large public sector projects should be required to take a minimum number of apprentices and suggest a ratio of one apprentice to every 10 workers.

The Scottish Building Federation hosts the Scottish Building and Apprenticeship Training Council, which provides support for both parties on their contractual rights and obligations. Things like levels of pay are set by the Council. The Council has a 'corporate governance' role in maintaining the quality of apprenticeships, for example they assess whether the apprentice is being properly inducted.

ConstructionSkills suggested that Local Authorities could use local labour targets as a way of increasing the number of non-white ethnic minority apprentices.

The Industry does not always lend itself to long-term sustainable traineeships. One contractor described that it can be difficult to support a long-term career because you cannot guarantee the workload within projects. We have received some anecdotal evidence of people being taken on in the South East on what they thought were apprenticeships where they would receive proper training and gain a qualification. In fact these people were not being trained for a proper apprenticeship and then were being let go without achieving any qualifications when the recession started.

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Some witnesses commented that the structure of the Industry in terms of large projects does not support apprentices. Main contractors cannot offer continuity – because they are dependent on suppliers and sub-contractors. However, it is similarly difficult for sub-contractors to offer continuity when they are operating on a project to project basis. The volume of sub-contracting creates short-termism and a lack of focus on sustainability. However, it is noteworthy that some large contractors, for example Laing O’Rourke, have adopted a business structure that employs direct labour and does not rely on sub-contracting, which may be more conducive to apprentice engagement. Tim Forrest identified that it would be helpful if an apprentice could move from project to project through a central facilitator. Often jobs on projects can be quite short and so contractors feel that they cannot accommodate an apprentice. If apprentices could be shared between projects more easily this would make a big difference.⁶⁰

A number of witnesses and Industry insiders commented on the business benefits of using apprentices. Tim Forrest argues that apprentices contribute greatly to the Industry. He identifies that recruiting apprentices is also a very good way to meet local labour targets on public sector contracts; and while it can be difficult to task apprentices in some of the more ‘high tech’ parts of the Industry, social housing is an area where it is quite easy to use apprentices. However, he has commented that in the context of framework agreements some big contractors bid very strongly but in practice provide very little training at all. He argues strongly that the Government ought to put some specific targets in place around apprenticeships; during the Industry boom there was no significant increase in apprenticeship numbers, so the likelihood of there being an increase in a recession without mandatory targets in place is highly unlikely. He proposes that for every £1million spent there should be between one and two apprentices.⁶¹

One witness suggested that funding or some financial incentive for apprenticeships should be focused on outcomes, ie completion of apprenticeships, as a means of ensuring that the apprentice receives the appropriate support.

⁶⁰ Tim Forrest writing in *Construction News*, 7 May 2009 ‘SMEs are still hiring apprentices’. HT Forrest Limited is an employer in Lancashire that employs about 400 people of which approximately 80 are apprentices.

⁶¹ Ibid.

Securing placements

More than two-thirds of apprentices that ConstructionSkills assist are 'ready matched' with employers (ie they have already secured an employer). It is thought that this 'ready matching' largely comes about through word of mouth. It is not known how many of the 'ready matched' apprentices are from non-white ethnic minorities. It is significant that most apprentices do their training in small businesses. Witnesses noted that many are found through or with relatives, family or friends. One witness commented that because of this you would not find out about the opportunities unless you had a specific connection. Other witnesses have commented that increasing percentage levels of apprenticeships in the public sector is one way to tackle this. Such an increase could assist in reducing the numbers of apprentices that are 'ready matched' and open up apprenticeships to those without pre-existing networks.

The ability of ConstructionSkills to influence who takes up an apprenticeship or who takes on an apprentice is limited. ConstructionSkills only have the ability to influence one-third of applicants who are unmatched to an employer when they contact ConstructionSkills.

This is potentially a major barrier for non-white ethnic minority people who may not have the established networks in the Industry to find themselves an employer. Historically, ConstructionSkills have not been able to send the details of would-be apprentices to employers. However, a recent internal process change gives ConstructionSkills a more active role in finding an employer for an apprentice. This should have a positive impact on placing non-white ethnic minority people who do not have established networks in the Industry.

In recent years there has been an increased focus on 'programme-led', rather than traditional, apprenticeships. On programme-led apprenticeships, the apprentice will complete classroom-based training first and will then be tasked with finding an employer to complete the practical placement. For people without pre-existing contacts in the Industry this may prove difficult and if they are unsuccessful they will not be able to complete their qualification.

UCATT commented that programme-led apprenticeships are not as highly rated by employers as traditional apprenticeships. They expressed concern that if there are significant numbers of non-white ethnic minorities on programme-led rather than traditional apprenticeships, they may be placed at a permanent disadvantage. UCATT stress that all groups need to get the same quality of training.

Some colleges reported that they assist students in trying to find placements, though it appears that the level of support and assistance given depends on the particular college in question. It would seem that there is a need for more structured facilitation to ensure that the programme-led apprenticeship can be completed.

A number of witnesses, including some further education colleges and the Construction Youth Trust, have pointed to the need for more support to assist people in obtaining their first placement or work experience.

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The Black Training and Enterprise Group (BTEG) reported difficulties accessing apprenticeships and other opportunities on the Olympic projects. They commented that young people are finding it difficult to identify access points and are finding the application process opaque and difficult to navigate. BTEG also comment more widely that the process for applying for apprenticeships generally needs to be a lot more transparent, and that sometimes young people do not understand that they are applying to ConstructionSkills and not to an employer direct. They suggest that more needs to be done to 'help young people understand where they stand in the process'.

Conclusions

There are a higher percentage of non-white ethnic minority people reported to be undertaking training for the Industry than are represented in Industry statistics.⁶² There is a lack of available information to fully explain why there is a 'drop off' between training and employment. Significant factors relating to training include a 'traditional' apprenticeship or a placement at the end of a 'programme-led' apprenticeship. However, without further research it is unclear how great a barrier this is.

The fact that currently significant numbers of apprentices come 'ready matched' can present a barrier to entering the Industry as those without established networks will find it harder to come 'ready matched'. This is another facet of word of mouth recruitment and raises concerns regarding unlawful discrimination.

'Ready matching' has also limited the ability of ConstructionSkills to influence the diversity of apprentices. Programme-led apprenticeships may present similar problems for those without established networks as it will be more difficult for them to find placements at the end of the college-based part of the course.

The recent focus on apprenticeships, the creation of the National Apprenticeship Service and the commitment to provide more apprenticeships presents an exciting opportunity for the Industry to attract a diverse pool of talent. Over time this could make significant inroads into the under-representation. Examples of good practice and opportunities for change in this area are presented in Part Three.

⁶² ConstructionSkills report that 7% of trade trainees are from non-white ethnic minorities. The Industry-wide statistic is 3.3%.

Chapter 8

Recruitment and contracting practices

Workers

The Inquiry identified a number of themes in relation to recruitment practices prevalent in the Industry which may be significant in explaining the under-representation of non-white ethnic minority workers. We identified that much recruitment is done by word of mouth which means that people who do not have established networks in an overwhelmingly white and male Industry may find it harder to enter the Industry. Virtually all witnesses mentioned this as a key issue. It is clear that informal networks still operate in the Industry to a large extent. It is also clear that for non-white ethnic minorities there are few such networks in operation and non-white ethnic minority groups do not have the same links with the Industry as white groups. One witness commented that the effect of these practices is that recruitment to the Industry results in ‘their own image’, ie predominantly white and male.

The ‘who you know’ factor in recruitment was a recurring theme in evidence to the Inquiry. It appears significant that of the non-white ethnic minority people we collected evidence from many of them had a connection in the Industry through family or friends.⁶³ Usually this had played a part in them considering the Industry as a career choice and often it meant that they had networks that they could tap into to get themselves started in the Industry.

One witness commented that avenues into the Industry are not necessarily clear if you do not already know people in the Industry. Obviously, if you have connections it is more likely that you will be aware of the opportunities that arise.

Another witness commented that companies are ‘lazy’ about opening up recruitment practices, perpetuating under-representation.

One witness commented that the Industry has a tendency to continue in habitual ways and needs to ‘spread out’. They describe a general lack of reaching out by the Industry.

⁶³ Note that these are people who declared their race or ethnicity and not all witnesses did so.

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A slightly different aspect of this was highlighted by the Recruitment and Enterprise Confederation (REC). They commented that traditionally the Industry has not been keen to recruit people that have not already got construction experience and has not been very good at identifying transferable skills.

Another witness noted similarly that the Industry does not focus on generic skill sets and needs to recognise their value.

The REC identified that agencies can offer a wider range of candidates from different routes and therefore may offer a way to diversify labour in the Industry. However, statistics indicate that only 5% of workers operating through agencies (not including labour-only sub-contractors) are from non-white ethnic minorities.⁶⁴ The REC stated that word of mouth is far less of an issue in recruitment agencies as often all people on the agency database will be notified of an appropriate role and the commercial incentive is to place a candidate.

There was some evidence that the situation is not uniform across the range of jobs in the Industry. One witness commented that word of mouth recruitment is likely to operate more at the 'lower end' rather than at managerial levels where roles are much more likely to be advertised.

Contacts are important in getting that 'crucial first job' and therefore it is important that non-white ethnic minority people have wider support to have access to the careers available in the Industry. As we reported in Chapter 7, ConstructionSkills gave evidence that many trainees already come 'ready matched' with an employer and that these employers often tend to be relatives, family or friends. As there are few non-white ethnic minority employers there are fewer leads and less chance of word of mouth networking.

The legal position on word of mouth recruitment

Using word of mouth recruitment practices may well amount to unlawful indirect discrimination in breach of equality laws. Indirect discrimination occurs when a provision, criterion or practice is applied and, while it is applied to everyone, it has a disproportionately adverse impact on people from a particular group. Word of mouth recruitment may have an adverse impact on members of non-white ethnic minorities.

⁶⁴ Information provided to us by the Recruitment and Enterprise Confederation.

One of the principles of good practice set out in the Code of Practice on Racial Equality in Employment ('the Code')⁶⁵ is that opportunities for employment, including promotion and training, should be equally open to all eligible candidates and selection should be through open recruitment practices. These include: job descriptions, person specifications, job advertisements, application forms, shortlisting and interviews. None of these are present in word of mouth recruitment. The Code specifically says that employers should avoid recruitment solely or in the first instance on the basis of recommendations from existing staff, particularly when the existing workforce is wholly or predominantly from one racial group.⁶⁶

During our Inquiry, although many witnesses have commented negatively about word of mouth recruitment practices, we have heard little to suggest that the Industry is aware that the use of such methods may be indirectly discriminatory and therefore a breach of the law.

Self-employment

We have heard some evidence during the Inquiry that self-employment in the Industry can provide an alternative opportunity for non-white ethnic minority workers who cannot find employment due to the Industry's current recruitment practices. However, unless supporting networks or resources are available, they may struggle to sustain their businesses and/or to obtain contracts because of the prevalence of 'approved' supplier lists. Some research has suggested that it is difficult for new contractors to get on to these lists.⁶⁷ One study reports that repeat business is a popular recruiting method for contracts worth less than £10,000. This will potentially exclude small businesses.⁶⁸ There is also some evidence to suggest that such recruitment methods operate to create alternative 'closed networks' within specific non-white ethnic communities.

Tendering/contracting

There is some evidence that the use of 'approved lists' of preferred contractors in the procurement process creates disadvantage for non-white ethnic minority-owned businesses seeking contracts in the Industry.

⁶⁵ Commission for Racial Equality Statutory Code of Practice on Racial Equality in Employment (2005).

⁶⁶ Commission for Racial Equality Statutory Code of Practice on Racial Equality in Employment (2005), paragraph 4.11.

⁶⁷ Research commissioned by the Commission: *Race Discrimination in the Construction Industry: A Thematic Review* by Equality Research and Consulting Limited.

⁶⁸ *Race equality and procurement: an investigation into the impact of race equality on the procurement of BME contractors and consultants in the Welsh Social Housing sector* by Duncan and Mortimer (2007).

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Business in the Community (BITC) commented that it is a difficult sector to penetrate for sub-contractors, as closed networks operate and it can be difficult for non-white ethnic minority businesses to find opportunities before they are taken.

One witness explained that traditionally the supply chain has always 'gone with' the contractor. For example, if a large contractor has worked with four smaller sub-contractors before they will often move from project to project using the same sub-contractors. This may simply reflect contractors sticking with those who they know will do a good job for them, a factor which we consider further in Chapter 12. There is evidence which we report in Chapter 13 that public sector procurement is acting as a driver to diversify the supply chain where this has been identified as an issue.

We also heard evidence about the steps taken by some construction firms to improve supply-line diversity. These are reported in Chapter 11.

Conclusions

Some parts of the Industry still rely on outdated methods of recruitment, most significantly word of mouth recruitment. These prevent the Industry opening up to diverse entrants and it is important that reliance on word of mouth recruitment ceases. This applies both to the recruitment of individual workers and to tendering and contracting.

There is not sufficient recognition that such practices may be discriminatory and unlawful. The Industry does not seem to have taken significant steps to avoid relying on these methods. If the Industry is to become more diverse achieving this recognition is critical.

The Industry must take serious steps to address the reliance on recruitment practices which are likely to be unlawful.

Chapter 9

Barriers to retention

One of the terms of reference of this Inquiry is to look at the barriers to retaining non-white ethnic minority people in the Industry. The discrepancy between relatively high rates of training take-up and representation within the Industry suggest that, in addition to problems experienced in the transition from training to work, there may be work-based barriers facing non-white ethnic minorities.

Clearly an experience of discrimination may have a decisive impact on whether or not that person remains in the Industry. In Chapter 10 we discuss levels of discrimination and describe some of our witnesses' experiences of racism in the workplace.

Most of the experiences of discrimination that we have heard about have not resulted in the individuals leaving the Industry. However, our Inquiry has found it difficult to obtain evidence from individuals who have left the Industry. As we noted in Chapter 2, there is also a lack of Industry-generated evidence, for example from exit interviews, which could provide a more accurate picture of the experiences of non-white ethnic minority workers in the Industry and their reasons for leaving it. Clearly that kind of evidence would be the most valuable in understanding the barriers to retaining people from non-white ethnic minorities in the Industry.

Progression

It is difficult to gauge barriers to retention, given the lack of effective monitoring in the Industry that might identify patterns relating to why people leave the Industry. However, a significant number of witnesses indicated that problems with retention are caused by the difficulties that non-white ethnic minority people experience in progressing through the Industry.

A consistent theme in retention is that non-white ethnic minority workers feel that they have to work harder to prove themselves to be better than white colleagues in order to progress. We also heard evidence that non-white ethnic minority groups who are in the Industry tend to be concentrated in low-skilled or less well-paid jobs, as discussed in Chapter 2. One witness commented that 'people need to be able to aspire and progress through the Industry'.

Some witnesses cited feeling that their development is limited and describe 'glass ceilings' and a feeling that their 'face does not fit'. One witness commented that there is still some way to go in opening people's minds and making people understand the business benefits of diversity and how it contributes to business in the long run.

One witness commented that people will stay in the Industry if they can 'take for granted' that they will be treated equitably and will be afforded the same opportunities for development as everyone else.

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Among a number of witnesses there was a feeling that as a non-white ethnic minority person you are not allowed to make the ‘same mistakes’ as others.

‘It seems like I have to continuously show why I deserve to keep my job. Besides having to work a lot more to prove this, I have to show that I can study on the side.’

An Assistant Quantity Surveyor

The Construction Industry Council (CIC) stated that there are not many senior people in the Industry who are from non-white ethnic minority backgrounds, although there are a few notable exceptions. They commented that while the numbers of non-white ethnic minority people joining the Industry has increased they still remain concentrated at the lower levels of the Industry. The work CIC are doing on monitoring across the built environment professions has the aim of understanding some of these issues.

The Black Training and Enterprise Group (BTEG) noted that even in progressive Local Authorities the people at the top are still white. The BTEG reported an expectation among their membership that if you are from a non-white ethnic minority background you are not likely to progress at the same rate as other people.

One witness commented that while you do not see a lot of non-white ethnic minority representation in second tier management positions, there are more people in technical parts of the profession. The same witness commented that people from non-white ethnic minority backgrounds can suffer because a lot of the Industry is built on communication skills. This is not so much of a problem for second generation immigrant groups but it might be a problem for first generation. Often first generation migrants will be confined to the

technical parts of the professions which do not require high levels of communication. The issue is not necessarily to do with speaking English but with cultural differences in communication.

One witness felt that career progression could quickly become a significant issue. Demographic change may demand changes to recruitment practices. The challenges will lie in ensuring that progression is open and fair.

The legal position

Lack of progression in the Industry, apart from having serious consequences in terms of the under-utilisation of talent, may also have legal implications. There is a potentially serious issue if a failure to promote is because of race or ethnicity – this would amount to direct discrimination. If provisions, criteria or practices are being applied in relation to promotion decisions and these have an adverse impact on non-white ethnic minority people this may also be indirectly discriminatory.

Experiences at work

Witnesses have referred to people having negative experiences in their first few years in the Industry and deciding to leave the Industry to seek employment in an industry that is more accepting. Witnesses report both non-white ethnic minority people and women feeling that they are made to jump through more hoops than their white male counterparts.

‘By and large there are many people who are willing and supportive but a few people that make things difficult. Unfortunately sometimes these people are in positions of influence.’

A worker in planning management

Both ConstructionSkills and the Construction Youth Trust recommend the use of mentoring at the stage when someone gains their first job in order to provide additional support while the person adapts to the Industry. East Potential commented that there can be problems sustaining employment: this can sometimes be about not having skills to deal with incidents that might occur in the workplace.

The BTEG commented that more support is needed to help people 'navigate' the sector. They highlighted that some people may find the culture and ethos of the Industry difficult and might need to be 'supported and prepared' for some of the possible scenarios they may face.

Other barriers to retention

A small number of witnesses identified language as a barrier. They expressed the view that it was difficult to make themselves understood to some non-white ethnic minority workers. They felt that clear written and spoken English is an essential skill which is not always met.

As noted in Chapter 2, a significant barrier to retention is the project-based nature of the Industry which is short term and therefore does not afford the time to break down barriers.

The construction firm, Emanuel Whittaker, identified that many young people are recruited into the Industry through various schemes. In this context they have often been encouraged to go down a route that they may not have been particularly enthusiastic about. If construction is not necessarily what a young person wants to do then they may not last in the Industry and that may go some way to explaining exit rates. They comment that it can be difficult to find people who have a long-term commitment to the Industry and it can be necessary to give extra levels of support to those who display this commitment.

Conclusions

It is difficult to assess the extent to which under-representation of non-white ethnic minority workers in the Industry is caused by a failure to retain those workers who have entered the Industry as opposed, for example, to a failure to remove barriers to entry to the Industry in the first place.

The use of effective monitoring and exit interviews and an ongoing review of promotion practices could illuminate the factors involved, provide valuable lessons for individual firms and help the Industry to understand why skilled workers in whom they may have invested time and money are leaving.

A significant barrier to retaining non-white ethnic minorities in the Industry seems to be their lack of progression. This has potentially serious legal implications for the Industry.

Non-white ethnic minorities also need support through the early stages of careers, when it seems negative experiences are more likely to occur. It is a problem for the Industry if it loses talent that it has invested in and/or fails to utilise that talent to its full potential.



Chapter 10

Unlawful race discrimination

In this section we report on the evidence which the Inquiry received about the prevalence of potentially unlawful race discrimination in the Industry. There are four main forms of unlawful discrimination; the legal definitions are set out below.

Unlawful **direct race discrimination** is defined in Section 1 of the Race Relations Act 1976 as follows:

A person discriminates against another in any circumstances relevant for the purposes of any provision of this Act if –

(a) on racial grounds he treats that other person less favourably than he treats or would treat other persons; or

(b) he applies to that other a requirement or condition which he applies or would apply equally to persons not of the same racial group as that other but –

(i) which is such that the proportion of persons of the same racial group as that other who can comply with it is considerably smaller than the proportion of persons not of that racial group who can comply with it; and

(ii) which he cannot show to be justifiable irrespective of the colour, race, nationality or ethnic or national origins of the person to whom it is applied; and

(iii) which is to the detriment of that other because he cannot comply with it.

Unlawful **indirect race discrimination** is defined in Section 1(1A) of the Race Relations Act 1976 as follows:

A person also discriminates against another if, in any circumstances relevant for the purposes of any provision referred to in subsection (1B), he applies to that other a provision, criterion or practice which he applies or would apply equally to persons not of the same race or ethnic or national origins as that other, but –

(a) which puts or would put persons of the same race or ethnic or national origins as that other at a particular disadvantage when compared with other persons

(b) which puts [or would put] that other at that disadvantage, and

(c) which he cannot show to be a proportionate means of achieving a legitimate aim.

Unlawful **race discrimination by way of victimisation** is defined in Section 2 of the Race Relations Act as follows:

(1) A person (“the discriminator”) discriminates against another person (“the person victimised”) in any circumstances relevant for the purposes of any provision of this Act if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has –

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(a) brought proceedings against the discriminator or any other person under this Act; or

(b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Act; or

(c) otherwise done anything under or by reference to this Act in relation to the discriminator or any other person; or

(d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Act,

or by reason that the discriminator knows that the person victimised intends to do any of those things, or suspects that the person victimised has done, or intends to do, any of them.

Unlawful **race discrimination by way of harassment** is defined in Section 3A of the Race Relations Act 1976 as follows:

(1) A person subjects another to harassment in any circumstances relevant for the purposes of any provision referred to in section 1(1B) where, on grounds of race or ethnic or national origins, he engages in unwanted conduct which has the purpose or effect of –

(a) violating that other person's dignity, or

(b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

(2) Conduct shall be regarded as having the effect specified in paragraph (a) or (b) of subsection (1) only if, having regard to all the circumstances, including in particular the perception of that other person, it should reasonably be considered as having that effect.

References to discrimination in this chapter describe less favourable treatment on the basis of a person's race. Many examples in this chapter are of unlawful direct discrimination. Some experiences referred to may not amount to unlawful discrimination but refer to a general feeling that a person is disadvantaged because of their race in the Industry. Therefore, not all of what we loosely refer to as 'discrimination' would necessarily meet the legal tests set out above.⁶⁹ Much of what we are concerned with in this chapter is focused on behaviour rather than systemic or institutional issues which may have a discriminatory impact.

As required by s.16(2) of the Equality Act 2006, in carrying out this Inquiry we have not considered whether any specified or identifiable person has carried out an unlawful act by breaching the Race Relations Act 1976.

Although there are many examples of good practice occurring in the Industry in relation to diversity, our Inquiry has heard evidence that people are also suffering discrimination.

⁶⁹ By this we mean the four types of discrimination set out in the Race Relations Act 1976: direct discrimination (section 1 (1) (a)), indirect discrimination (section 1(1A)), victimisation (section 2) and harassment (section 3A).

There is some evidence to suggest that the perception of racism in the Industry recorded by the ICM Research survey is reflected by the reality. The survey revealed that 43% of non-white ethnic minority witnesses felt it was likely that they would experience racism in the Industry.⁷⁰ 47% of non-white ethnic minority witnesses felt that racist comments and behaviour would go unchecked⁷¹ and 40% thought that employment practices discriminated against non-white ethnic minorities.⁷²

Reported cases

There are very few reported cases of race discrimination in the Industry.

- The most high profile recent case is *Essa v Laing*.⁷³ Mr Essa was a construction worker from Cardiff and during the course of his work a racist comment was made about him. Liability was accepted – it was not disputed that a racist comment had been made. The legal issue was about whether the psychiatric damage Mr Essa suffered was foreseeable.⁷⁴

- Criminal proceedings were brought against three construction workers in the West Midlands who subjected a work colleague, Mr Mehmood, to serious racially aggravated harassment covering nine incidents over a 10 month period.⁷⁵ The treatment included removing the victim's clothes, tying him to railings and hosing him down with cold water. One of the arguments submitted on appeal was that in the road maintenance gang there existed a culture of dangerous horseplay. This was rejected by the Court who described the treatment as 'sustained and targeted cruelty'.

Our Inquiry indicates that although there may not be very many reported cases of race discrimination, it remains a problem in the Industry.⁷⁶ In fact one witness felt that racism was 'still endemic', though this was not the view of the majority of witnesses who felt that racism might exist in isolated pockets. One witness stated that there are still a small number of people in the Industry who feel that the barriers facing non-white ethnic minority people should be maintained and who seem to have a difficulty in accepting or promoting a diverse environment.

⁷⁰ *Race in the Construction Industry Research Report*, prepared for the Commission by ICM Research, available at: www.equalityhumanrights.com

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ *Laing Limited v Yassin Essa* 2004 EWCA Civ 2.

⁷⁴ It was held that the specific type of harm did not need to be foreseeable for there to be liability.

⁷⁵ The three defendants, McDermott, Melaney and Skett pleaded guilty to racially aggravated harassment. Therefore the first case was not reported. However McDermott and Melaney appealed the sentence: [2008] EWCA Crim 2345 where the original sentence of three years imprisonment was upheld.

⁷⁶ This assertion is based on a number of incidents described to us by witnesses.

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One witness commented that although policies and procedures state that discriminatory behaviour is not acceptable, there are still elements of racism. He commented that more often than not this is borne of ignorance rather than overt racist intentions. However, he did comment that he thought it likely that there would be ‘pockets of hostility’.

Some witnesses demonstrated negative attitudes towards non-white ethnic minorities stating that they were more interested in claiming discrimination than working. Perhaps one of the most concerning findings of our Inquiry is that some non-white ethnic minority people feel that discrimination is something that they have to accept and should ‘learn to live with’. Some of the incidents reported in this chapter are of blatant racism.

Witnesses gave evidence about discrimination taking various forms.

Underlying unequal treatment

Some witnesses have reported underlying issues rather than overt comments or behaviours. One witness said that it was a matter of trust. If a person doesn’t feel like an equal then they will not feel particularly safe. This is a significant issue in an environment like construction which is by its nature hazardous.

Another witness felt that there was ‘low level subliminal discrimination’ still present on some construction sites.

There was also evidence of discrimination relating to progression and recruitment:

- One witness commented that he felt like he needed to work harder, that he was treated less favourably than white peers and that he had experienced a non-white ethnic minority person having a job offer withdrawn without any explanation as to why.
- Others reported feeling that it is difficult to progress, feeling unsupported and feeling that you have to work ‘twice as hard to prove yourself’.
- One witness was unable to secure a work placement despite, on paper, being much better qualified than his contemporaries:

‘people from black communities [have] higher and good qualifications but still cannot get a sniff at working in the Industry’.

A student undertaking a degree course in Building Services (B Eng (Hons) Building Services)

Overt racism

It was reported by many witnesses that banter and jokes are part and parcel of the accepted culture in the Industry. Sometimes this could be racial in content. Evidence received by the Inquiry on this topic included:

- Witnesses who reported the need to ‘develop a thick skin’, ignore banter and learn to take it as a joke. Another witness commented that he felt that harassment is often seen as a joke and that he hopes that a ‘harmless laugh’ has been the aim.
- A number of witnesses said that they just put up with it and ignore it so as not to be seen as a troublemaker.

- Others commented that there is not enough understanding of the line between ‘banter’ and bullying and harassment. Sometimes there may be a racial overtone to so-called ‘banter’.
- One Pakistani witness reported colleagues discussing racial jokes they had been sent on their mobile phones about Pakistani people.
- One witness reported that she had experienced racist comments and inappropriate language among white people in the team but not in the presence of any non-white ethnic minority people. This witness felt that this demonstrated that racist attitudes may still be present though people would not necessarily behave like that directly towards a member of a non-white ethnic minority group.
- One witness stated that there is a need to rigorously monitor the use of inappropriate language and behaviour in the Industry but equally there should be no place for playing the ‘race card’.

A witness Law Centre commented that there seems to be a culture of acceptance around people making unacceptable comments and in that regard construction differs from other industries where discrimination is usually less blatant. The witness described there being a culture of acceptability and reluctance to challenge the ‘ringleaders’ responsible for unacceptable comments. In addition these incidents were not one-offs but what people had put up with during the course of employment.

Another witness reported a worrying display of racism in an interview setting. A manager who was about to interview him was overheard by the witness asking a colleague what ‘that monkey’ (ie the witness) was doing in their reception area.

During the Inquiry we have also been given examples of racially abusive language being used towards people from non-white ethnic minorities by customers and clients, rather than from work colleagues. For example, one Indian witness reported a housing authority tenant using racially abusive language to describe the fact that the witness was doing work for the housing authority in his home.

Despite the incidents set out above, for the large part witnesses told us that racism is not seen to be acceptable in the Industry. One witness who works with a number of construction companies on training commented that a construction company had recently experienced a dispute between workers on-site which was sparked by a clash of cultures. The witness thought that the situation was managed very well and that the issue was resolved. She believes that the company demonstrated a good understanding of the issues and did not shy away from dealing with a sensitive situation involving race, which she felt the company might have done in the past.

Other examples of good practice in this area can be found in Chapter 11.

How the Industry tackles discrimination

The witness Law Centre commented on a pattern involving a level of tolerance of incidents of racism, that would not be acceptable in, for example, an office environment.

A number of witnesses noted that within some firms there is a lack of knowledge and training: an organisation may have a policy but its workforce may not be putting it into practice.

It is reported that while people may verbally complain about the way they have been treated, they often do not take any formal steps and employers often do not deal with verbal complaints in a way that might be expected in other sectors, for example by following a formal grievance procedure. In cases reported by the Law Centre:

- An incident took place in the presence of a manager who took the claimant to one side and told him that it was just banter and no one in the company was racist.
- Someone was impersonating a monkey and in another case verbal racist remarks were made. In both cases the adviser felt that management knew about the incidents but wanted to 'sweep them under the carpet'.

One witness noted that if discrimination comes from a client, the fear of losing that client may mean that appropriate action is not always taken.

Reporting racism within the Industry

Interestingly, the incidents cited to the Law Centre did not come to light because the individuals had complained about the incidents *per se*; they came to someone's attention because they were seeking advice in the context of job losses.

The witness Law Centre noted that the incidents of discrimination do not tend to be very sophisticated. They commented that they thought that one of the reasons why there are not many reported cases of race discrimination in the Industry is because the discrimination is usually very obvious. Therefore, such claims tend to be settled before they reach an Employment Tribunal.

One witness who has worked in the Industry for many years⁷⁷ stated that for the most part he had had a 'racially incident-free time' if he ignored 'odd indiscretions'. However, he reported having to put up with inappropriate language in the presence of colleagues and sub-contractors. He felt that it was difficult to make a formal complaint if you do not want to be branded a 'troublemaker'. He reported feeling in a 'quandary' about whether it would be constructive to 'make a fuss' or not.

The structure of the Industry may make it difficult to enforce rights 'up the contractual chain'. One witness commented that one of the problems with the level of sub-contracting is that if you complain you may find yourself no longer working on the job.

⁷⁷ The witness reported that he had been in the Industry for more than 20 years.

Another witness felt that the casualised nature of the Industry may mean that if an individual is subjected to discrimination they may not report it but simply move on to another site without mentioning why. Some witnesses have identified a fear of blacklisting and damage to reputation if they complained.

As a vivid illustration of the reality of this last fear, our examination of the so-called construction industry 'blacklist' seized by the Information Commissioner in March 2009⁷⁸ revealed that some of the individuals on the database had listed against their names that they had brought claims or raised allegations of race discrimination in the past. The 'blacklist' contained details of 3,213 construction workers and was used by over 40 employing companies to vet individuals for employment. It contained a wide range of information about individuals (held without the knowledge of the individuals), including details of personal relationships, trade union activities, employment history, whether they had raised issues of health and safety and whether they had brought legal claims of any sort.

The 'blacklist' was run by the Consulting Association for over 15 years. Companies paid a subscription fee and could both add and access information on the database.

Clearly the existence of the blacklist is a serious concern in itself. More generally, however, it and other factors suggest that the structure of the Industry and the patterns of employment are such that the legal requirements set out in the Race Relations Act 1976 and other equality enactments may not be being enforced via individuals bringing claims to the same degree as in industries with more structured patterns of employment.

Conclusions

While we note the views of many witnesses that the Industry has improved, there remain parts of the Industry where there seems to be a tolerance of 'banter' that would not be acceptable in other industries. We have also identified other experiences of racism which are very concerning.

The evidence suggests that there are relatively few discrimination cases brought to conclusion against businesses in the Industry but that the low level of complaints raised does not reflect the incidence of unlawful racial discrimination in the Industry.

The evidence suggests a number of contributory factors to this phenomenon, including:

- the fact that cases of discrimination in the Industry may be more blatant than in other industries and are more likely to be settled

⁷⁸ The Information Commissioner issued an enforcement notice to Ian Kerr, the owner of the Consulting Association, which ordered him to stop using the system, Mr Kerr has been prosecuted by the Information Commissioner for breach of the Data Protection Act 1998. He made a guilty plea and was fined £5,000 and ordered to pay costs.

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- the casualised nature of work in the Industry meaning that someone who suffers discrimination may simply move on, and the fear that bringing a claim will simply lead to damaging your ability to find work in the future.

In such circumstances, there is a strong argument for the Commission taking a more interventionist role by stepping in to tackle those who are discriminating, relieving the workers (who may feel vulnerable in doing so) from taking up that burden. This is an area of particular concern to the Commission which we explore further in our concluding Part Four.

Part Three

Good practice and the impetus for change

This part of the Report examines the steps which are being taken within the Industry to address the causes of under-representation identified in Part Two. In some ways this is the most important part of the Report because it illustrates the practical steps which can and are being taken to address those causes. It also looks at the drivers for change including public sector procurement.

Chapter 11: Examples of good practice in the Industry highlights practical steps which have been taken to address some of the causes of under-representation identified in Part Two.

Chapter 12: The commercial imperative looks at the argument that businesses in the Industry need to change practices in relation to non-white ethnic minorities to remain competitive and asks whether further work needs to be done to highlight the need for change. It also considers the benefits for organisations of complying with the law and the potential costs of not doing so.

Chapter 13: Public procurement looks at the impact of public sector procurement on changing the diversity of the Industry's workforce.

The **Key Findings** from this part are:

- There is a significant amount of good practice in the Industry. However, it appears in pockets and as yet has not had the effect of significantly increasing the proportion of non-white ethnic minorities in the Industry.
- There is a commercial imperative for diversity in terms of the skills gap, potential labour shortage, opportunities for public sector contracts and the consequences of breaching the law.
- There is an important role for the public sector in using its procurement power to achieve diversity. There are some good examples of procurement powers being used effectively that could be replicated more widely across the Industry as a lever for change.
- The consequences of breaking discrimination law may not be widely apparent in the Industry. The Commission needs to identify the most effective way to hold to account those in breach of the law.



Chapter 11

Examples of good practice in the Industry

During the course of our Inquiry we asked witnesses, both individuals and organisations, to give us examples of good practice they are aware of which work towards increasing the representation of non-white ethnic minorities in the Industry. The examples set out in this chapter are initiatives and schemes that witnesses reported to us. In the post-Inquiry phase, the Commission has not evaluated the quality or success of the good practice examples referred to. The Commission will consider what further work to undertake to evaluate good practice examples and to co-ordinate the dissemination of good practice so it reaches across the Industry.

Tackling awareness and perceptions

Chapter 5 evidenced the role that image and perceptions have on maintaining under-representation among non-white ethnic minorities. As noted, witnesses were extremely concerned that the Industry's poor image was a significant deterrent to entry.

One further education college felt that a change in terminology might assist in making the Industry more prestigious, for example calling someone a building technician rather than a 'brickie'.

Similarly it is felt by some witnesses that the word 'construction' has negative connotations and that people respond better to the term 'built environment'.

One of our key findings in Chapter 5 was that there is a lack of awareness among people in general, but among non-white ethnic minority people in particular, about the Industry and the range of opportunities within it. In this section of this chapter we look at the work being done in the Industry to raise awareness. Our findings indicate that work to raise awareness is an important way to increase the number of non-white ethnic minority people in the Industry.

Case study

Construction Ambassadors work to improve the image of the Industry, raise levels of awareness about its work and promote role models who are working in the Industry. We spoke to a number of Ambassadors who explained what being a Construction Ambassador involves.

The Construction Ambassadors scheme involves people who work in the Industry explaining their role and experiences to targeted groups of young people. The scheme has the support of a number of large contractors who encourage their employees to get involved, for example Laing O'Rourke and Taylor Woodrow.

Often the Construction Ambassadors are invited into schools to talk about what the Industry is like and explain how they came to be in the Industry. They also speak to

students at college and university. Often this will involve a task or game to encourage interaction and arranging visits to show students what a building site, for example, is like. Ambassadors are a good way of promoting awareness of the variety of roles available in the Industry, especially on the professional side. They report that often the students have little awareness about jobs in the Industry. One Construction Ambassador reported being asked about myths surrounding the Industry and was able to clarify what the reality is.

Construction Ambassadors also front social networking activity on Bebo and answer questions on the Industry, offering advice in relation to their experience.

Non-white ethnic minority people are represented among ConstructionSkills Construction Ambassadors.

ConstructionSkills has a Positive Image Campaign, an annual awareness-raising and recruitment campaign which aims to challenge stereotypical perceptions of the Industry and raise awareness of the range of careers on offer. Images of ethnic minority people featured prominently in the 2008 campaign materials.

The campaign has recently been reviewed to decide how best to build on its success to date. In 2008 people from non-white ethnic minorities were targeted by the campaign with a focus on areas with high levels of representation of these communities. Campaign tracking indicated that interest in construction among non-white ethnic minorities had increased substantially (from 9% to 32%).⁷⁹ It has been decided that a new

evidence-based strategy using up-to-date technologies will be used to promote the Industry in a positive light. Diversity will be one of the key themes and the focus will be on a wider audience than the traditional 14–19 year-old focus.

Different tools will be used to advertise the Industry, for example social networking sites. ConstructionSkills commented that it is important to demonstrate to young people the earning potential available in the Industry and the opportunities, for example for setting up your own business.

⁷⁹ Post-campaign tracking of Positive Image campaign by ROI for ConstructionSkills.

The **Construction Youth Trust (CYT)** run a range of programmes to assist in raising awareness of the Industry, providing access to training, enhancing employability, mentoring and work support. The CYT supports a number of initiatives that encourage young people to consider the construction industry as a career, for example, they have mobile classrooms that provide taster sessions for people in deprived areas who are interested in careers in construction. Mobile classrooms are currently operating in Manchester, Newport and East London.

Construction Industry Council (CIC) in collaboration with ConstructionSkills, send all schools a DVD about the built environment which shows a wide range of individuals and jobs.

Architects for Change (AFC) was established by the Royal Institute of British Architects (RIBA) Equality and Diversity Forum in 2000, to challenge and support RIBA in promoting greater diversity in the architectural profession. The AFC co-ordinating committee brings together a number of external networks including Women in Architecture and the Society of Black Architects. The 2008/9 co-ordinating committee was launched in April 2008 at the 'Changing Faces' equality event. Achievements have included developing a model for 'career taster' workshops, which encourage girls and school students from ethnic minority backgrounds to consider careers in architecture. They forge external partnerships to produce guidance on supporting student diversity in British schools of architecture and sponsor a roadshow to showcase the work of women architects and minority-led practices.

Tackling barriers to entry and retention

In Chapters 5 to 9 we discussed in detail the barriers to entry and retention of people from non-white ethnic minorities in the Industry. One of the most significant barriers we identified, which affects access to training, work and contracts, is the reliance of significant parts of the Industry on word of mouth recruitment. However, we have heard evidence of good practice by organisations seeking alternatives to traditional recruiting methods in the Industry.

One witness city council has focused on the importance of targeted advertising to appeal to specific communities. They have identified the need to advertise in the Asian press and to use a wide range of images and people in their marketing. Encouraging community engagement by visiting communities and building relationships is important. Another witness identified that it is very important to target recruitment initiatives and not necessarily use the same media that you would use to target majority groups.

The following initiatives aim to bring more non-white ethnic minorities into the Industry by using different methods to those traditionally relied on by the Industry. Many initiatives also focus on the need to ensure that non-white ethnic minority entrants to the Industry are retained. We discussed this issue in Chapter 9 and found that some of the issues included a feeling of lack of progression and negative experiences of work. Some witnesses expressed the view that it is important to support non-white ethnic minority groups once they are in employment. Some of the initiatives

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described in this section specifically aim to do this.

Respect for People, led by Constructing Excellence, is a major programme of activity and guidance which aims to support and develop the Industry's workforce.⁸⁰ It provides an overall framework for improvements in:

- equality and diversity in the workplace
- the working environment
- health
- safety
- career development and lifelong learning, and
- worker satisfaction.

The framework includes a suite of toolkits to enable positive change, allied to a set of key performance indicators. The aim is that the programme will be adopted comprehensively across the Industry by 2010.

The toolkits for equality and diversity in the workplace set out the business case for diversity, and support users to review their business practices and make an assessment of their capacity to develop and sustain diversity. A checklist of areas encompassing policy implementation, recruitment and promotion, harassment, bullying and discrimination, and work–life balance enable users to assess their strengths and identify areas which need improvement.

The toolkit advocates circulating the assessment widely within the business, to enable contributions to positive changes. It also recommends that the exercise is repeated regularly to track progress.

STEP Into Construction, a programme provided by CYT and ConstructionSkills, works directly with employers and others to support under-represented groups including women and ethnic minorities to get into the Industry. The project supports employers in the recruitment and support of black and Asian men and women who are 'job ready', by providing funding for agreed activities. This can include employer support for a six-week work trial on the basis that they guarantee an interview at the end. ConstructionSkills have reported significant numbers of positive outcomes across England, Scotland and Wales.

CYT and ConstructionSkills have developed their partnership, with the CYT setting up a Diversity Strategic Group to influence the increase in representation of women and ethnic minorities across the Industry. The Group brings together senior figures from the Industry including Wates, the Association for Public Service Excellence (APSE) and the Highways Agency Board, and links into Business in the Community .

AFC have also been liaising with the Stephen Lawrence Trust on a mentoring scheme for aspiring ethnic minority architecture students aged 16–19. It is anticipated that this work will contribute to longer term plans to develop mentoring schemes at key 'make or break' stages in architects' careers.

ConstructionSkills supports the Inspire Scholarship programme which is aimed at attracting young people to enter undergraduate programmes in the Built Environment sector. 24% of the people on the scholarship scheme are from non-white ethnic minorities.

⁸⁰ <http://www.constructingexcellence.org.uk/zones/peoplezone/respect.jsp>

Budding Brunels is a scheme for sixth form students in the 2012 'host' boroughs of London, which introduces young people to the built environment professions. The scheme aims to attract a diverse group of students. The scheme attracted 95% non-white ethnic minority students in 2007 and 90% in 2008.

CYT works with the London Development Agency to deliver Capital Xperience, which offers young people the opportunity to do a paid work placement to experience project-based work in construction companies. The scheme works closely with employers and has been successful in assisting people to get employment or sponsorship. In 2007 and 2008 80% of students were from non-white ethnic minorities.

Society of Black Architects (SOBA) provides a network and support forum for ethnic minority architects. They contribute to the work of RIBA's Architects for Change group. SOBA has pioneered student mentoring by its members through the framework of the SOBA Black Business Forum.

Case study

Emanuel Whittaker is based in Oldham and employs around 110 staff. Their work includes partnerships with social landlords and regeneration agencies to deliver major refurbishment and modernisation programmes.

The Inquiry talked at length to three of their employees from non-white ethnic minority backgrounds and to the Chief Executive.

The firm developed a variety of initiatives to diversify its workforce in recognition of the changing nature of the communities within which they operate:

- to take advantage of the potential for new communities to widen the pool of recruits
- in recognition of the value of reflecting the communities served to deliver improved customer confidence

- to develop a greater understanding of the needs of their clients and of social housing tenants.

Their diversity initiatives also recognised that certain groups were less likely to apply for work in the Industry.

The methods used by the firm to increase diversity in both recruitment and retention of staff include:

- developing specific diversity objectives and plans for achieving them
- setting recruitment and retention targets across non-white ethnic groups
- changing facilities to accommodate cultural and religious requirements

- developing new recruitment methods and partnering with local authorities, which increase the opportunities for people from non-white ethnic minority groups to understand and apply for work and training in construction. This has involved ensuring messages about opportunities are geared to specific non-white ethnic minority groups and delivered via local community groups and contacts rather than relying solely on traditional advertisement and marketing methods.

The firm has made use of the Diversity Toolkit provided under the Constructing Excellence Respect for People programme.

Specific activities which have benefited not only Emanuel Whittaker but the wider construction sector in the area include:

- **Managed Exchange**, which is an exercise with Oldham Metropolitan Borough Council, local schools and other contractors, to encourage young people from non-white ethnic minority groups to know more about the Industry and consider joining. Over 100 young people attended an open event, with over half expressing an interest in the Industry.
- **Step Into Construction**, which is ConstructionSkills' initiative to encourage young people – including people from non-white ethnic minorities and women – into the Industry.

The company ensures that diversity is one of the mainstream components of its marketing and procurement. It sets targets to recruit local labour, provides two traineeships for local people per £1million of contract investment, and specifies diversity-related targets – including those that help to ensure that the percentage of non-white ethnic minority workers employed on specific local projects reflects their representation in the local population.

We took evidence from the members of staff about how they had benefited from the firm's drive for diversity. They reported:

- experiencing the mutual support that a more diverse staff group can provide for people from non-white ethnic minorities
- support from the firm in combating racism from staff, clients and members of the public
- an open management style where employees can raise concerns
- a commitment to ongoing training and support to encourage retention
- that the firm were championing staff – one of those interviewed was nominated for and won the New Starter of the Year at the Women In Construction Awards
- that staff were being supported to be role models and ambassadors for the firm and the Industry
- that the firm was partnering local agencies, including the Local Authority and the Race Equality Council, to develop policy and practice in recruitment and training and to take part in joint initiatives to increase diversity.

Transport for London (TFL) on the East London Line project place a significant focus on bringing community benefit to an area through the use of contractual obligations. They have built in contractual requirements on equality, diversity and inclusion, which involve working to maximise opportunities for local ethnic minority businesses throughout the project.

An Employment and Training Advisory Group has been established to ensure that job opportunities are available to the widest number of candidates. There is a focus on labour suppliers engaging with local labour through the East London Line Employment Pool, where each local employment organisation has an equal responsibility for referring candidates.

A significant feature of the project is that there is extensive training from senior management down. The team report back to Transport for London on a 12-monthly basis on workforce diversity including the extent of non-white British involvement and whether the workforce is from the local community. TFL contractual clauses cover compliance with TFL and the Greater London Assembly's legal obligations, equality policies, diversity training, supplier diversity, local community relations, monitoring and reporting, diversity infractions and equality and diversity audits.

DLR 3 Car CEP Project Taylor Woodrow carried out a voluntary diversity questionnaire of 2,588 staff (which is completed at the induction stage) which revealed 34% of staff⁸¹ (including Taylor Woodrow staff, sub-contractors and operatives) are from non-white ethnic minorities. 25% of Taylor Woodrow's salaried staff in management positions on the project are from non-white ethnic minorities. The project supplements the recruitment of engineers and project delivery staff by joining forces with the University of East London to support students studying for the foundation degree in civil engineering.

A number of the project team are Construction Ambassadors. In addition the project is involved in Capital Xperience and three out of four students on the project applied for construction-related degrees and sponsorship.

Bramall Construction has worked positively with ethnic minority communities in relation to their five-year refurbishment of 900 council-owned properties in Eastwood, Rotherham, an area with a high Asian population. This involved:

- outreach work – meeting people and introducing the company, and making sure that the local community was aware of what would be involved in the refurbishment work and who the team were
- one-to-one consultation by visiting individual clients to check that they fully understood what work was planned and when it would be carried out
- offering bilingual support and making sure that there is a high level of awareness of the service

⁸¹ Taylor Woodrow *Equality, Inclusivity and Diversity Report*, November 2008.

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- employing a bilingual Tenant Liaison Officer familiar with the culture of the local minority community in order to facilitate communication between members of the community and construction workers
- encouraging cultural awareness among the construction company employees through a monthly newsletter highlighting religious events and explaining to employees the daily routine of praying five times a day among its Muslim clients
- all employees having a basic knowledge of the local language, at least enough to give and receive basic greetings.

Access and support for contractors

In Chapter 8 we set out our findings on the difficulties of accessing opportunities for contracts in the Industry, of which word of mouth is a factor. In addition, approved lists and a tendency to stick with sub-contractors whom contractors have previously worked with, present further barriers. In this section we describe the steps that are already being taken by some organisations in the Industry to ensure better access and support for contractors.

Lakehouse, the construction company, employs a small business adviser and has additional support in place so that small local businesses can partner with Lakehouse on large projects.

Mace provide a 'business school' to mentor smaller companies down the supply chain.

Emanuel Whittaker explained that it mentors a smaller company so that they are able to partner with them on one of their housing association projects.

The **TFL East London Line** project ensures that the main contractors provide support to sub-contractors in complying with the contractual obligations.

DLR 3 Car CEP Project Taylor Woodrow monitor supplier diversity and have identified that the specialised nature and allocation of the contracts at the tender stage is a barrier to diversifying the supply chain. Therefore, a procurement schedule was compiled to identify what opportunities could be opened up to diversify the supply chain.

Case study

The **Olympic Delivery Authority (ODA)** and the **London Development Agency (LDA)** have developed a multi-strand, multi-agency approach and partnerships with main contractors to help develop positive working relationships and changes in practice.

Training One of the biggest hurdles identified for non-white ethnic minority groups entering construction was access to the right training programmes to ensure they have the skills they need to be job-ready for opportunities. The LDA funds a number of programmes, including two training schools located near to the Olympic Park itself, to train people in civil engineering skills such as plant operatives, form work, concreting and scaffolding. These training facilities are designed to increase the skills of Londoners in trades and jobs which are likely to be in high demand during the Games build and in other large civil engineering projects such as Crossrail and the Thames Water Tunnel. In 2008 the LDA supported over 12,000 people to gain skills

related to the Olympic Games, over half of whom were from non-white ethnic minorities.

Access to jobs and contracts When people are trained and ready to work, it is necessary to ensure there are jobs available. The LDA funds employment and skills managers, who work within the ODA's Equality Inclusion, Employment and Skills Team. The employment and skills managers provide a link to the contractors on each of the Olympic venues to identify vacancies in advance. They then support individuals applying for these roles, working with people to identify their skills and aptitudes and what their training needs are. They also offer skills training to people who may have been subjected to historical disadvantage. This starts by offering people taster courses which may lead to training. Olympic Park vacancies are advertised through a network of local labour schemes and job brokers across London, giving individuals in job centres or other recruitment agencies the chance to apply for the positions. For the first 48 hours there is a moratorium on advertising vacancies beyond the job brokerage scheme so that local labour resident in the host boroughs gets the 'first bite of the cherry'. If positions are not filled from local labour via the job brokerage scheme then after 48 hours the vacancy is opened up London-wide. The scheme does not guarantee jobs but means that people have better opportunities to apply. Prioritising the five east London 'host boroughs' – Newham, Hackney, Waltham Forest, Tower Hamlets and Greenwich is expected to increase the number of people from non-white ethnic minorities gaining access to jobs and skills development

opportunities due to their significant representation in the demographic of these boroughs. LDA also supports London's job brokers to become better equipped and better skilled through Relay London Jobs.

Each main contractor on the Olympic Park is required to deliver its own Equality Action Plan and reports to the Equality and Inclusion Board. Contractors are asked to encourage workforce and supply chain diversity by making sub-contracting opportunities available to local non-white ethnic minority small and medium enterprises (SMEs) through the use of the CompeteFor website.

At the end of March 2009, there were 4,101 people working on the Park, 13% of whom were from non-white ethnic minority backgrounds. 20% of the contractor workforce are from the five host boroughs, with 9% previously unemployed.

Training and education

In Chapter 6 we reported our findings about training and education in the Industry. We highlighted that sometimes Industry-related training needs to be more advanced and more relevant. Some groups have difficulties accessing Industry training and may not have the necessary skills to take advantage of opportunities in the Industry. The examples in this section describe some initiatives that have been set up to assist with education and training needs.

Women and Work: Sector Pathways

Initiative As part of the government-funded Women and Work: Sector Pathways Initiative, ConstructionSkills have helped women access work-related training and support initiatives. The percentage of ethnic minority women who have participated is considerably higher than the percentage of ethnic minority trade trainees across the Industry. During the period November 2006–March 2008, 9% of the women were of ethnic minority origin. This rose to 10.3% during the period April 2008–March 2009.⁸² The programme of activity for 2008/09 includes work on routes to employment for women new to the sector, training and support for tradeswomen to set up businesses and also to become self-employed in the Industry, and support mechanisms to assist in the retention of women on apprenticeships.

The **Building Work for Women (BWW)**, launched and funded by the LDA in 2002, and delivered by Women and Manual Trades (WAMT), has been successful in attracting ethnic minority women. At its launch, 60% of women from the scheme were of ethnic minority origin.⁸³ The project has worked with trainee tradeswomen in London who completed at least Level 2 (NVQ or equivalent) qualifications and need to gain the work experience needed to find work within the Industry. The programme supports women with CV production, interview and application techniques, driving lessons, personal protective equipment and other training such as personal safety, health and safety training and First Aid. BWW brokers employment placements and also provides its beneficiaries with tools, child care, and lunch and travel expenses.

Stephen Lawrence Trust The 5 Host Boroughs Bursary Award intends to help redress imbalances in the professions, by helping students from non-white ethnic minority backgrounds to make a significant contribution in architecture and related professions, and by promoting the involvement of outstanding ethnic minority people and their achievements in these fields. The programme will provide £10,000 to fund five students (one from each of the boroughs – Greenwich, Hackney, Newham, Tower Hamlets and Waltham Forest), who intend to study architecture at university. If successful, applicants will receive an award of up to £2,000 to help with course fees and/or basic living expenses over a 12-month period.

⁸² Based on data supplied by CITB-ConstructionSkills Research Department, March 2009.

⁸³ Information from the London Development Agency website, accessed on 24 March 2009.

A new £1million initiative from the Trust and architecture company RMJM, aims to transform some of Britain's most deprived inner city areas 'from the inside out' by encouraging more young people from non-white ethnic minority groups to become architects and to send the most promising to the design school at Harvard in Boston, one of the best regarded in the world.

The 'Architecture for Everyone' campaign will uncover and support new architectural talent by delivering workshops in inner city Britain that will help to engage and inspire young people around new ways of channelling creativity. For example, it is hoped that young people who pride themselves on their street art will be inspired by understanding how they can have a wider impact on their urban space by re-directing their artistic leanings to architecture and design. The workshops will enable young people to meet senior architects who are responsible for designing some of the world's most high profile buildings and to develop real links and progression routes into the Industry.

Tackling race discrimination

In Chapter 10 we reported on the evidence the Inquiry received about the prevalence of potentially unlawful race discrimination in the Industry. This was reported to take a number of forms, including overt racism. Obviously these are of great concern to the Commission. However, work is taking place in parts of the Industry to tackle race discrimination. Details of some of this work are set out in this section.

ConstructionSkills produces Tool Box Talks – Fairness and Respect at Work, which are a set of materials suitable for use on construction sites. They cover a range of issues of relevance to equality and diversity. Of particular relevance to race equality are the talks on:

- company/site equal opportunities policy
- making sure people are treated fairly and respectfully
- acceptable workplace behaviour (harassment)
- 'it's just a joke – no sense of humour!' (banter)
- bullying
- working with people who are different from 'us'.

Using diversity monitoring

In Chapter 3 we reported that generally speaking diversity monitoring in the Industry is not widespread, although many larger organisations use monitoring. We reported evidence that the purpose of monitoring does not seem to be well understood. Examples of successful monitoring taking place in the Industry are:

Royal Institute of British Architects (RIBA) Through a random annual survey of membership the RIBA monitors the ethnic mix of their membership and provides this information publicly on their website. Comparisons are made with previous years in order to assess levels of improvement in representation.

ConstructionSkills have been doing some work on monitoring diversity across the Olympic Park, which showed that a total of 155 learners have progressed from Plant Training at Eton Manor to employment – 37.4% of these were people from non-white ethnic minorities.

East London Line Diversity monitoring is one of the contractual requirements on the Balfour Beatty/Carillion Joint Venture on the East London Line project. TFL require that both project employees and site staff are monitored. A key element in ensuring a good response rate is ensuring that the purpose of the monitoring is explained properly to staff. There was a significant difference in the return rate between the project team (50%) and site staff (27%). Clearly one issue is the practicality of filling in a monitoring form on-site, possibly in wet or cold weather. The diversity monitoring on the East London Line project (as at December 2008) demonstrated that 26% of the project team and 42% of the site team were from non-white ethnic minorities. 64% of the project team and 69% of the site team were from local target boroughs.⁸⁴ This information is then used to measure performance against contractual targets.

As part of ensuring diversity on the overall project, the Balfour Beatty/Carillion Joint Venture also monitor the diversity of the supply chain.

CIC As noted in Chapter 3, following research into diversity monitoring within the professions, CIC are championing monitoring by the professional membership bodies scale programme, with a commitment to support the initiative by undertaking to gather, collate and publish diversity monitoring information on an annual basis on its website.

Conclusions

The practice outlined above demonstrates a wealth of initiatives and commitment to increasing diversity. However, the level of non-white ethnic minorities remains low.

The national programmes are relatively new and perhaps it is too early to assess their full impact. In addition, many of the good practice examples take place in isolated projects. The fragmented nature of the Industry, outlined in previous chapters, may be affecting the extent to which positive work proliferates across the Industry. Chapter 12 also looks at other incentives which may be lacking in taking these positive steps. Work needs to be done to identify how it can be extended to cover more of the Industry and to bring about significant change.

⁸⁴ Figures provided to us by the East London Line Joint Venture in the context of their Equality Monitoring Analysis in December 2008, covering 2007 and 2008.

Chapter 12

The commercial imperative

There is evidently knowledge within parts of the Industry of how to bring about positive change in the diversity of its workforce. As the preceding chapter demonstrates, there are a number of examples of good practice in the Industry which should contribute to improving the representation of non-white ethnic minority workers in the Industry. The key emerging questions for the Inquiry was why, given the good practice taking place, there has been such a slow increase in the representation of non-white ethnic minority workers in the Industry.

In Chapter 11 we noted that one potential reason for the slow spread of good practice is the fragmented nature of the Industry, which might make it difficult to co-ordinate initiatives. That said, initiatives such as Respect for People have made information, guidance and tools widely available for the Industry.⁸⁵ It is also the case that some of the barriers which we identified in Part Two of our report, such as word of mouth recruitment, are not only out-dated but potentially unlawful and long recognised as so outside the Industry. For example, the issues of word of mouth recruitment has been the subject of a statutory code of practice since 1984.⁸⁶

This suggests that in some parts of the Industry the issue might be less about knowing that practices needed to change and how to change them than about firms seeing a reason to change.

The ‘business case’ for increasing diversity has been set out for the Industry by most of the major bodies and national programmes. They focus on the added value which diversity brings to long-term sustainability and profitability:

- it widens the pool of talent available to the Industry and values the workforce, therefore encouraging them to give their best efforts to the Industry
- promoting diversity reduces staff turnover and attrition and takes advantage of demographic shifts
- it enhances innovation and creativity by using the wealth of knowledge and skill
- it can also improve the image and reputation of the Industry and therefore attract a higher calibre workforce.

However, these positive benefits do not seem to have resonated sufficiently with businesses across the board in the Industry.

We asked witnesses to help us understand what drives change in the Industry.

⁸⁵ See Chapter 11 and <http://www.constructingexcellence.org.uk/zones/peoplezone/respect.jsp>

⁸⁶ The Commission for Racial Equality: Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment (1983) came into force on 1 April 1984.

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The response was as consistent as it was unsurprising: for any organisation operating in the private sector, the bottom line is commercial viability. The view of many witnesses who gave evidence to the Inquiry was that the biggest, possibly only real, driver of change in the Industry is the commercial imperative.

One witness commented that because it is a hard industry ‘race and stuff didn’t really matter’ the emphasis is on ‘can you do the job?’ Some witnesses have pointed to the commercial reality that if a contractor is behind on a large contract with significant penalties attached, the job will get finished using whatever labour is available – diversity will not come into it.

One witness talked of the potential spur for change in commercial terms:

‘There needs to be a greater responsibility on employers to be more reflective of society – this needs to be backed by financial incentives. It is a matter of priorities – money needs to be focused on diversity.’

A Local Authority employee

This chapter considers evidence received about the impact of that commercial imperative on Industry practices and asks whether more can be done to use commercial imperatives to lever change in the Industry’s approach to diversity and equality.

The underlying issue is how the commercial imperative can become a force for change rather than an inhibitor of change. The focus of a business in the Industry must primarily be on winning contracts and then getting the job done within the required timescale and quality standard to avoid penalties being applied. Evidence collected by the Inquiry suggests that some firms will see moving away from tried and trusted practices, such as those for recruitment, as a risk for their business.

This was summarised by one witness who said that the issue is: why take the risk of employing someone you do not know or do not have experience of, when the existing workers or sub-contractors have always done a good enough job?

There was recognition that a broader recruitment process might produce a workforce that could do a better job but while the current one was doing a good enough job, the commercial imperative doesn’t require change.

Three aspects of the commercial imperative

Evidence gathered by the Inquiry suggested three distinct aspects of the commercial imperative which could catalyse the Industry into taking action to addressing diversity in the Industry:

- public procurement
- the skills shortage
- legal compliance.

Public procurement

It is arguable that currently the most immediate of these is the impact of procurement which creates an incentive to address diversity issues in order to get public sector business.

A significant part of this business case for diversity is the reach of public sector procurement, which accounts for around 40% of construction spend. The public sector must comply with the Race Equality Duty⁸⁷ and this has a trickle down effect into construction projects. Businesses that want to tender for public sector work need to show their commitment to diversity. Frequently on large high profile projects the demands made on the private sector to demonstrate their commitment to diversity are many. Engaging with the diversity agenda therefore increases the likelihood of obtaining public sector work and is thus an important commercial incentive. We devote the next chapter to public sector procurement power and look at how this influences greater non-white ethnic minority representation.

The skills shortage

The second commercial imperative which could provide a catalyst to action is the impact of the Industry-wide skills shortage.

ConstructionSkills, among others, have repeatedly highlighted the fact that the Industry faces a skills gap and a shortage of labour. This is taking place in the context of demographic changes which will see ethnic minorities make up one half of the growth in the wider UK workforce within 10 years. ConstructionSkills have identified that there is a real need to increase the numbers of non-white ethnic minorities and women in the Industry. Without making use of the pool of all British citizens regardless of age, gender or ethnic background, it will not be possible to recruit the volume of people that the Industry needs.

‘The logic is simple: we must change the way in which we recruit, and we must work hard to improve the image of the Industry to appeal to this fresh pool of recruits.’

Sir Michael Latham⁸⁸

In addition parts of the workforce are ageing. As noted earlier, a witness who works for a railway construction company stated that many workers involved in railway construction are ex-British Rail and approaching retirement age.

⁸⁷ The Race Equality Duty as set out in Section 71(1) of the Race Relations Act 1976.

⁸⁸ Extracted from a speech by Sir Michael Latham, DL, Chairman, ConstructionSkills, 30 January 2008.

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We have also had described to us an increasingly competitive environment, with foreign-owned businesses competing for British construction work. It is vital that British businesses can compete by having a suitable skilled workforce. The Department for Business, Innovation and Skills are in the process of conducting a review of productivity and skills. In 2005 it was identified that there was a need to improve skills and productivity in engineering construction.⁸⁹ It was identified that the skills shortage was affecting Britain's competitiveness (along with some other factors).

Historically the Industry has looked to migrant labour to fill any gaps. However, this is a short-term approach which does not necessarily guarantee there will be the available skills and the right volumes of people available to meet the future needs of the Industry. While some migrant labourers may settle in Britain on a permanent basis,⁹⁰ there is an emerging pattern of migrants returning to their home countries.

ConstructionSkills have suggested that at present the immediacy of the skills shortage has not registered with the majority of those in the Industry and so it is not providing the impetus for change which it should. This may be understandable in the current economic climate where a shortage of workers seems contrary to experience when there are significant redundancies in the Industry. The challenge is to make the long-term view seem more immediately relevant to the Industry. It will be important to clarify where within the Industry these redundancies are occurring, for example in administration, management, trades or professions.

Legal compliance

The third aspect of the commercial imperative is the need to avoid the discrimination penalty or, put another way, to benefit from compliance with legal requirements applying to the Industry.

The consequences of breaching discrimination law can be costly. During 2007/2008 the Employment Tribunals Service recorded⁹¹ 4,130 claims of race discrimination.⁹² The average compensatory award was £14,566. However, compensation in discrimination claims is uncapped and so there is potential for much higher awards.

⁸⁹ In 2005 a study took place by the Engineering Construction Industry Training Board.

⁹⁰ Subject to their fulfilment of UK immigration requirements.

⁹¹ Employment Tribunal and EAT Statistics (GB), 1 April 2007 to 31 March 2008 as published at: http://www.employmenttribunals.gov.uk/Documents/Publications/EmploymentTribunal_and_EAT_Statistics_v9.pdf

⁹² Across all sectors. The Employment Tribunals Service does not publish sector-specific statistics.

As noted in chapter 10, there is evidence that sometimes blatant race discrimination is taking place in the Industry, but there is little evidence of litigation or formal complaints being raised. It is of great concern to the Commission, which has a statutory duty to eliminate discrimination, that the equality enactments are not being complied with but that there seem to be no consequences for those in breach of the law, and that people are not enforcing their legal rights. There are organisations in the Industry that are ensuring they comply with legislation, engaging not just in minimal compliance but in good practice. They have a legitimate concern that other organisations are discriminating unlawfully and avoiding the penalties, either reputational or financial, for not complying with the law.

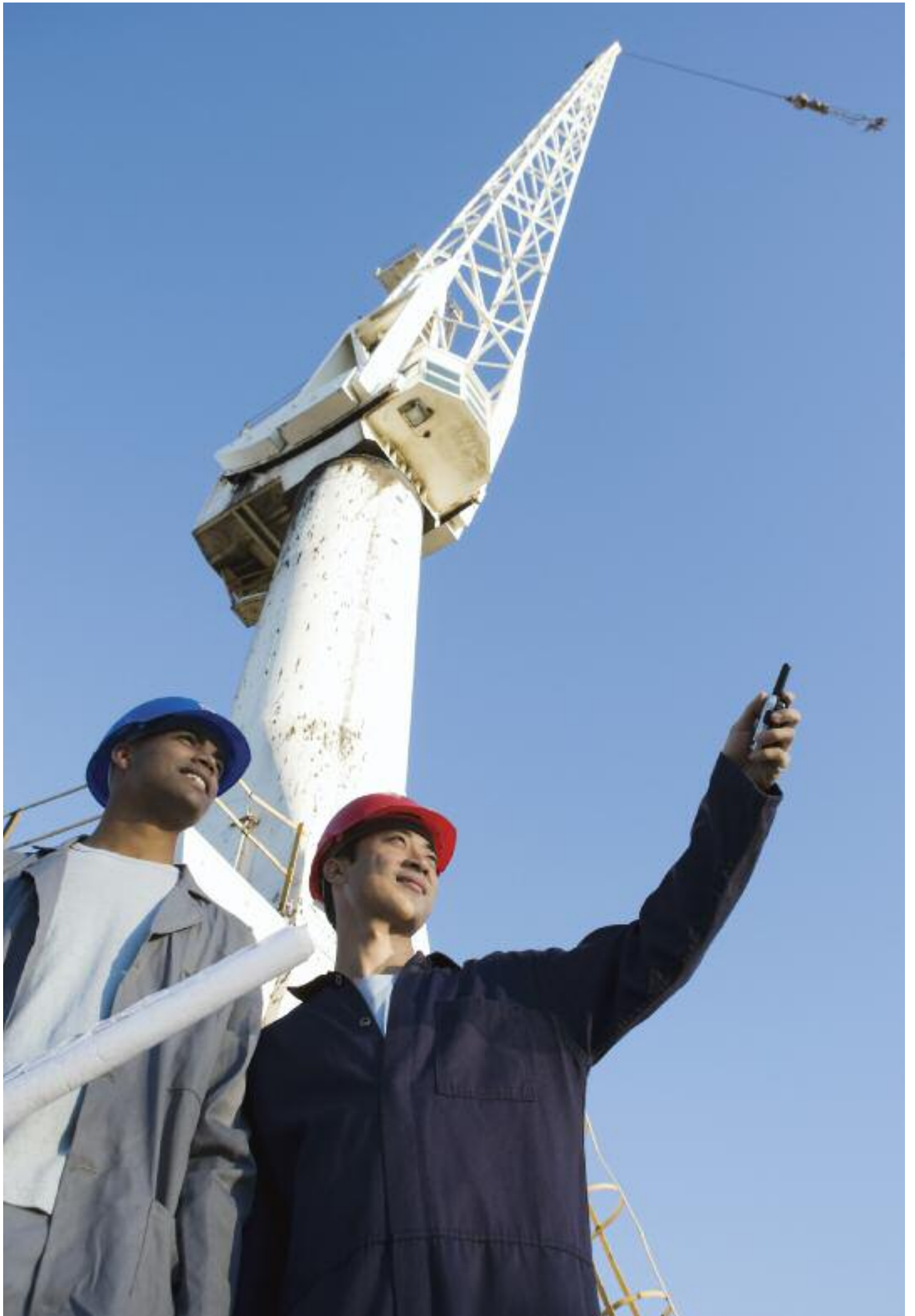
One of the challenges for the Industry (and the Commission) is to ensure compliance with the law, for example by operating so that transparent and open recruitment practices become part of the DNA of the Industry. Compliance with the law is only part of the solution when it comes to ensuring the diversity of the Industry, but should be the baseline for standards within an Industry. The Commission has a role in this process by ensuring that failure to comply with the law does have consequences.

The experience of the Industry in making health and safety considerations part of its mainstream activity is very instructive.

One witness commented that it was not until legislation was introduced that health and safety began to be taken seriously by the Industry. The witness commented that there has to be the right balance between ‘carrot and stick’. Failure to comply with health and safety obligations can lead to being ‘named and shamed’ by appearing on the Health and Safety Executive’s Public Register of Notice History.

Conclusions

The commercial imperative is paramount in the Industry. However, that imperative does not necessarily preclude measures to increase diversity. In fact, the contrary is often true. The issue may be one of ensuring the three aspects of the commercial imperative discussed in this chapter, and their connection to increasing non-white ethnic minority representation, are real and immediate so that they influence thinking and practice across the Industry.



Chapter 13

Public procurement

A number of witnesses had specific comments to make about the role of public sector procurement in encouraging diversity in the Industry. During our Inquiry we have come across a number of examples of public procurement powers being used in positive and innovative ways which could usefully be extended. We have described some of these in Chapter 11, and discussed the role of procurement as part of the commercial imperative in Chapter 12.

Many witnesses have commented that the public sector could use its procurement power to increase diversity to a greater extent than it currently does. A number of witnesses have commented on the significant ‘reach’ of public sector procurement powers.

ConstructionSkills is involved in discussion with the Department for Innovation, Universities and Skills and the Learning Skills Council with regard to the development of procurement provision in public funded works to support apprenticeship employment targets. They are also developing links with the Housing Communities Agency to explore the potential for opportunities offered by procurement requirements.

Steve Vickers of Birmingham City Council commented that public sector clients have got a lot of potential leverage because in excess of about 40% construction spend is within the public sector. Local Authorities can use their spending power to insist that local labour is used. He notes that the change should come from the public sector as they are the repeat clients of the Industry and can have a large impact on the image of the Industry.

Procurement power can create opportunities for under-represented groups; and you can use project-specific agreements to set local targets. For example, Birmingham Construction Partnership has three major contractors and 63 companies in the supply chain behind those contractors. They work jointly with contractors to ensure that they procure a diverse supply chain. Mr Vickers stressed that influence via procurement should not become a tick box exercise because there is the potential that situations can be manipulated so that they reflect the desired result. He commented that the greatest challenge is to ensure that non-white ethnic minority small and medium enterprises (SMEs) are engaged. He also noted that as large procurers public authorities should have a significant role in going into schools and raising awareness of construction.

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Another witness commented that many Local Authorities are in partnership with contractors in the context of framework agreements and therefore do not tender out specific jobs. It is therefore important that the Local Authority in question reviews the contractor's policies on a regular basis.

The role of large-scale projects

These publicly funded projects have the capacity to increase representation – requiring contractors to target local labour supplies and locally based sub-contractors, in addition to requiring specific equality-related policies, data and outcomes.

The Union of Construction, Allied Trades and Technicians (UCATT) commented that significant gains in terms of representation have been made on high profile projects in areas with high levels of diversity.

The Olympics is one of the largest construction projects currently taking place in the world and diversity has been placed at the centre of what the Olympic legacy hopes to achieve. See the case study in Chapter 11.

One legacy aspiration is that employers will appreciate the benefits of having a diverse workforce. The Olympics has positioned itself to influence future large construction projects. Within the context of the Olympic project the main barriers to entering the Industry have been identified as accessing jobs and opportunities in the first instance. This has therefore been the focus of the work that has taken place. An effective way of increasing the diversity of the workforce is to recruit locally and there are obvious benefits for contractors from recruiting local workforces.

The Olympic Development Agency (ODA) and the London Development Agency (LDA) commented that:

- successful outcomes require a high level of collaboration with contractors
- work on the project has shown that contractors have got the capacity to address race equality, and
- diversity can be integrated through the procurement route and through retention and recruitment policies.

They suggest that the public sector needs to be facilitative in the delivery of equality and inclusion. Contractors on the Olympic project report that they have found it useful to have someone to support them in the attainment of the diversity objectives of the project and act as a guide to what they are doing right and wrong. The LDA and the ODA consider it to be important for the public sector to support the private sector to deliver these objectives.

The ODA and the LDA stated that a large part of the Olympic project involved putting the mechanisms in place for contractors to be able to access the right people. It has also been identified as important to ensure that the training on offer is endorsed by contractors.

There have been some positive measured outcomes from the Olympic project so far. 62% of people receiving skills support from the Olympic Legacy Directorate through the Construction Accord (the construction training programme) are from non-white ethnic minorities. 53% of the total skills supports for the Olympic Legacy Directorate as a whole were received by individuals from non-white ethnic minorities.⁹³

⁹³ Figures provided to us by the London Development Agency for 2008/2009.

The target of having 15% construction workers on-site who are from non-white ethnic minorities averages around this figure.⁹⁴ Monitoring of the whole workforce at the induction stage takes place with a response rate of 78% out of 4,100 on-site.⁹⁵

There is also a commitment to provide 350 apprenticeships and the LDA and the ODA are working with a number of organisations to encourage interest in apprenticeships. They are also working with schools to highlight the range of available careers available in construction in their locality.

However, some witnesses have criticised the focus of training on the Olympic project being aimed at entry level and have expressed disappointment at the relative lack of apprenticeships. Some have commented that relatively few people are receiving long-term training and that often training takes place over very short periods. The Black Training and Enterprise Group (BTEG) feel that more could be done via work on the Olympics to track retention on the construction sites. BTEG have heard reports that some contractors are bringing in workforces from outside London, renting accommodation for them so that local labour clauses are met.

Business in the Community (BITC) commented that there has been good targeting of local labour via the Olympic programme, but there is a concern that this will only last for the life of the project. One of the aims of the LDA and the ODA is that people will gain the necessary skills to gain employment after the Olympics. Only time will tell whether this is the outcome.

There is an important role for public sector partnerships in overcoming historical barriers with the aim of working towards social and economic sustainability. The ODA and the LDA emphasised that public sector authorities are equipped with the skills, resources, frameworks and knowledge to take the process forward. They assert further that there is a role for public sector intervention to provide a useful link between contractors and individuals to engage around the diversity agenda. They suggest that big projects like the Olympics as the type of project that lots of people want to get involved in are a good way of promoting the Industry.

Crossrail On the Kings Cross Crossrail project, the London Boroughs of Camden and Islington have partnered to provide a directory of local businesses that the boroughs have already vetted, so that main contractor Taylor Woodrow can use this as a way of diversifying their supply chain. There are also specific aspirational targets that are to be met in terms of engaging local labour and 10–15% of the contract value is to be procured through local businesses.

DLR 3 Car CEP Project Taylor Woodrow work with employment-matching services and job brokerage services to direct sub-contractors to local labour providers. They comment that it is important that initiatives are set in motion far enough in advance to have an impact, ie before any decisions are taken about suppliers.

⁹⁴ Figures provided to us by the London Development Agency for 2008/2009.

⁹⁵ Ibid.

Elevate East Lancashire⁹⁶ (a regeneration agency working in Pennine Lancashire) acts as a facilitating body between a number of Local Authorities. Local Authorities work within a framework of key performance indicators (KPIs) when they are procuring partners. Partners contract to use their best endeavours to meet the KPIs set by the Local Authorities. Elevate works with the community to develop skills and get people ready to take jobs. They have taken a number of steps to ensure they are attracting members of non-white ethnic minority groups in East Lancashire. They have fostered relationships with community groups in order to encourage engagement and have targeted recruitment to specific groups, by advertising in mosques. Elevate has a strong ethos of creating housing that is suitable for the communities in which it operates and has a strong dialogue with communities about the housing that they want. Elevate have worked with Jobcentre Plus and Connexions to set up a database of people that can be matched with a contractor. They also work closely with local colleges.

Elevate currently have a voluntary mechanism to encourage contractors to take a certain number of apprentices linked to the value of the contract. Their aim is to have a more solid contractual requirement for the number of apprentices working on a contract. Elevate commented that they see themselves as a body that is in a good position to facilitate people getting experience on different kinds of projects, so that people can complete their apprenticeships by moving from one project to another if necessary. They suggested that if Local Authorities pulled together with county councils and hospitals they could form a critical mass that enabled people to train on different projects across a borough. The public sector authorities in an area could work together to map out the skills that the borough requires over a certain period of time and then work with colleges to make them aware of the volumes of people that will be needed to work in different parts of the Industry.

Elevate recommend a model based on a company limited by guarantee. They propose that requirements on diversity should be taken out of the hands of the private sector so that contractual obligations do not get watered down. They suggest that you could take out the amount that would have been included in the contract to comply with KPIs relating to diversity, apprentices and so on and provide them to the contractors 'for free', ie take out the social and economic responsibilities and calculate how much would be paid to a private sector contractor and use that money to 'buy' those KPIs.

⁹⁶ Elevate is a pathfinder for housing market renewal. It works with five borough councils – Blackburn with Darwen, Burnley, Hyndburn, Pendle and Rossendale. It also works with Lancashire County Council, English Partnerships and the North West Development Agency. It receives funding from the Department for Communities and Local Government.

Elevate has done a lot of work to engage SMEs in the supply chain. It bases its engagement with SMEs on what they want and therefore focuses on providing training and advice. For example a network of local SMEs has been set up which Elevate supports by putting on topical presentations. The idea is to help SMEs plug the gaps so that they are able to tender for work on some of the bigger projects. Examples are help with writing company policies and providing training on how to complete pre-qualification questionnaires. They have found that employing an Asian business adviser has helped to build a relationship with the Asian communities they are engaging with. It is noted that some groups may need more intensive support to get started than some of the mainstream resources provide. Elevate's programme of engaging SMEs seems to be having the desired outcome and the new business starts are reflective of the local non-white ethnic minority population (around 30%).⁹⁷

Conclusions

The public sector has got huge buying power in the Industry. We agree with a number of witnesses who said that they thought the public sector could use this buying power to demand more in terms of diversity. Doing so would increase the commercial imperative for the private sector discussed in Chapter 12. Where the public sector is using its influence in innovative ways, for example on the Olympic projects and other major projects, there have been positive results.

There is some additional work needed to explore how contractual powers could be used to demand more in terms of diversity. For example, contractors wishing to compete for public sector work could be asked to provide the ethnic profile of the company and the status of its employees. Contractors could also be asked to provide information around the proposed role that non-white ethnic minority workers would play on a project.

There is room for the public sector to take a consistent and even collective approach to support training and apprenticeships in the Industry and to bolster diversity through this route.

⁹⁷ Figures provided to us by Elevate East Lancashire.



Part Four

What next?

The central question for this Inquiry was: **why is there an under-representation of non-white ethnic minority workers in the Industry, and what should be done about it?**

This part sets out the Report's conclusions and outlines the key issues which the evidence to the Inquiry suggests need to be addressed in order to tackle the under-representation of non-white ethnic minorities in the Industry.

Summary of conclusions

In the landmark report produced by Royal Holloway for the Construction Industry Training Board (as it then was) in 1999⁹⁸ the key factors leading to under-representation of non-white ethnic minorities in the Industry were found to be:

- lack of success in developing awareness of the Industry
- the persistence of word of mouth recruitment practices
- lack of information about contracts which tends to exclude non-white ethnic minority people
- difficulty in getting jobs and a fear of racism
- perceptions that it was a white male-dominated industry
- non-white ethnic minorities felt that their experience of working in the Industry was different to that of a white person

- name-calling and harassment
- few equal opportunities policies or monitoring.

The statistical evidence clearly shows that the representation of non-white ethnic minorities Industry-wide has not significantly increased since 1999. In 1999 1.9% of workers in the Industry were from non-white ethnic minorities,⁹⁹ now that figure is 3.3%.¹⁰⁰

Ten years on from the CITB/Royal Holloway report, the evidence to the Inquiry indicates that these same factors are still the main contributors to the under-representation of non-white ethnic minorities.

⁹⁸ *The Under-representation of Black and Asian People in Construction*, report prepared for the Construction Industry Training Board, 1999.

⁹⁹ By reference to the Labour Force Survey 1996, 1997 and 1998 average as set out in *The Under-representation of Black and Asian People in Construction*, report prepared for the Construction Industry Training Board, 1999.

¹⁰⁰ ONS Construction Statistics Annual 2008, Table 12.7.

It is important to acknowledge that things have changed since 1999. There were few examples in 1999 of positive initiatives to tackle under-representation. The situation today is different. As the examples of good practice in Chapter 11 of our Report show, the Inquiry heard a substantial amount of evidence about some excellent work being done to tackle the causes of under-representation. The statistical evidence suggests that as yet those initiatives have not led to a significant Industry-wide increase in non-white ethnic minority workers.

The Inquiry heard evidence that blatant and completely unacceptable racism still occurs in some parts of the Industry. That is a serious matter of concern for the Commission given its role in ensuring compliance with the equality legislation, which makes such racism unlawful.

However, an underlying theme of our recommendations for action is that the Industry is not starting from scratch in tackling these issues. Instead, the key challenge for the Industry is how it will turn what are currently examples of best practice carried out by some in the Industry into recognised Industry standards expected of all.

Conclusions and key issues to be addressed

The causes of the continuing under-representation of ethnic minorities in the Industry are complex. The starting point for any work to tackle the issue must be the Industry itself. However, the evidence the Inquiry heard underlines the relevance of other sectors such as the education system and careers guidance to the issue and the importance of public bodies engaged in procurement in tackling it. Some of our recommendations for key issues to be addressed raise matters which will need to be considered by public bodies, such as Local Authorities or educational institutions working with the Industry, as well as the Industry itself.

In our Call for Evidence and in interviews with witnesses we asked what steps need to be taken to tackle the issue of under-representation. We received a number of helpful specific suggestions which have helped to inform our recommendations.

Leadership

Conclusions

There are many examples of good practice on encouraging diversity in the Industry but it appears in pockets and does not seem to have had the effect of significantly increasing the proportion of non-white ethnic minorities in the Industry.

One reason for this is that there is a wide range of Industry bodies and trade organisations but no single body that takes an Industry-wide leadership role.

The fragmented nature of the Industry is a barrier to a unified Industry approach to diversity. Although initiatives such as Constructing Excellence's Respect for People has made information, guidance and tools available to the Industry there are not yet recognised 'Industry standards' relating to diversity.

This fragmentation applies to policy responsibility for various aspects of construction within Government as well as to the Industry:¹⁰¹

Recommendations for key issues to be addressed

- There is a need to clearly identify and empower the body responsible for leading on setting Industry-recognised best practice standards on diversity.
- A key task for the responsible body will be to identify best practice and ensure that relevant guidance and toolkits are available to enable organisations of all sizes within the Industry to achieve that best practice.
- The work on best practice should build on existing work such as that done by Constructing Excellence in its Respect For People Diversity Toolkit.
- There is a need to increase Industry-wide understanding of the real-life business benefits of diversity for the Industry as a whole and for individual organisations. Work may need to be done on collating evidence of the tangible benefits, for example in terms of winning contracts with public bodies.

- The suggestion of the role of Chief Construction Officer is very welcome and the appointee will have a crucial role in contributing leadership on Industry-wide issues.
- The Industry needs to consider how best to generate a pool of skilled workers for the Industry. Some witnesses suggested that public, and particularly local, authorities should have a greater role in creating a pool of skilled workers. Other witnesses suggested that there should be a more creative approach to skills development based on firms sharing investment in worker development.

Awareness and perceptions of the Industry

Conclusions

There are many and varied barriers to entering the construction industry. A majority of witnesses cited the image of the Industry and the lack of awareness among people in general and non-white ethnic minorities in particular, about the range of opportunities available as being significant barriers to entry.

While we found some evidence that the Industry is not viewed as a prestigious one, the findings of our ICM survey indicated that non-white ethnic minority respondents to the survey did not view the Industry as any less attractive (indeed view it as slightly more attractive) than white respondents, despite not being as aware of the breadth of careers available within the Industry as white respondents.¹⁰²

¹⁰¹ Business and Enterprise Select Committee July 2008 Report, *Construction Matters*.

¹⁰² Note that non-white ethnic minorities tend to view all business sectors more positively than white people.

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Witnesses suggested that levels of awareness are influenced by the existence of people within the Industry with whom non-white ethnic minorities can identify, ie there is a need for role models.

Recommendations for key issues to be addressed

- The Industry needs to take further co-ordinated, Industry-wide steps to raise awareness of the Industry and the breadth of careers within it. Industry bodies should work together to achieve this.
- Raising awareness needs to take place in schools and needs to raise both children's and adults' awareness of the Industry.
- Schemes like Construction Ambassadors are important in providing role models to potential entrants to the Industry. Construction Ambassadors should pay particular attention to ensuring that under-represented groups in the Industry are well-represented by Construction Ambassadors. There should also be a focus on targeting schools and communities with high levels of non-white ethnic minority populations.

Training and education

Conclusions

Schools and careers advisers have an important role to play in increasing understanding of the range of different opportunities which the Industry can provide. If that role is not carried out effectively, there is a risk that awareness about the Industry as a potential employer will be limited to those who already have contacts within the Industry, reinforcing the tendency for the Industry to recruit in its own image.

Some witnesses felt that training needs to be more relevant. There exist some skills gaps in areas where there are significant volumes of construction taking place. There is a need to address this.

Recommendations for key issues to be addressed

- The Industry needs to be involved in ensuring that well-informed, good quality careers advice is available about the range of opportunities in the Industry.
- The Industry and Sector Skills Councils should consider whether more generic training could provide more opportunities at entry level.
- The quality of training should be kept under review to ensure it is meeting the diverse needs of those training to enter the Industry.

Apprenticeships and the transition from training to employment

Conclusions

There is a relatively high proportion of non-white ethnic minority students undertaking construction-related trade courses.¹⁰³ However, this does not seem to have translated to increased numbers of non-white ethnic minorities working in the Industry.

Finding apprenticeships and placements in the Industry can be difficult. There is evidence that there are insufficient numbers of apprenticeships available.

¹⁰³ 7% – figures provided by ConstructionSkills for 2008.

Most apprenticeships are ‘ready matched’ and therefore not influenced by ConstructionSkills. This is concerning because those people without existing networks will find it harder to obtain a placement. This is one aspect of word of mouth recruitment and raises concerns about unlawful discrimination.

Recommendations for key issues to be addressed

- Work needs to be done to establish whether more non-white ethnic minorities are undertaking ‘programme-led’ apprenticeships and then not being able to complete the apprenticeship because they are unable to find a placement. ConstructionSkills and other providers of apprenticeships need to take steps to act on this work.
- Apprenticeships should be used as a way of ensuring that more non-white ethnic minority people enter the Industry. The creation of the National Apprenticeship Service should assist the Industry in achieving this.
- Government should consider compulsory requirements to provide a certain number of apprenticeships per £1million of public sector construction spend. We recommend between 1 and 2 apprentices for each £1million.

Recruitment and contracting practices

Conclusions

There is a prevalence of word of mouth recruitment. This prevents the Industry from opening up to diverse entrants. This applies to both recruitment of individual workers and to tendering and contracting.

Recommendations for key issues to be addressed

- In order to increase the diversity of the workforce the Industry must replace word of mouth recruitment methods with more open recruitment practices.
- Awareness in the Industry that word of mouth recruitment is likely to be unlawful must be raised in order that the Industry understands why it must cease.

Barriers to retention

Conclusions

A significant barrier to retaining non-white ethnic minority people in the Industry seems to be their lack of progression in the Industry.

An additional barrier to retention that witnesses reported is having negative experiences at work.

Recommendations for key issues to be addressed

- The Industry needs to do more to understand why people leave the Industry. There is a need for effective monitoring, including exit interviews.

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- Ongoing reviews of promotion practices should be used to identify barriers to progression for non-white ethnic minorities and steps needed to address those barriers.
- There is a need to support people in the early stages of their career in the Industry when it seems negative experiences are more likely to occur, for example by encouraging the use of mentoring.

Unlawful race discrimination

Conclusions

Although the vast majority of witnesses felt that this has improved in recent years, there are still pockets where unlawful race discrimination exists, for example, there seems to be a culture of acceptance of banter in some parts of the Industry.

Some indirectly discriminatory practices such as word of mouth recruitment may occur because there is an ignorance that it is likely to be unlawful.

Overt racism is still present in some parts of the Industry, most commonly in the form of racist 'banter'. We received reports of blatant acts of discrimination particularly relating to the use of racist language. It would seem unlikely that where this form of unlawful harassment and discrimination occurs there is ignorance that it is unlawful.

There is some evidence that those who experience discrimination are less likely to tackle this by way of taking a legal case. There are a number of factors influencing this, including the transitory nature of working patterns in the Industry and the genuine fear that being seen as a 'troublemaker' will lead to an inability to find work in future.

Recommendations for key issues to be addressed

- Industry leaders need to send a clear message that race discrimination will not be tolerated.
- There needs to be a tangible 'discrimination penalty' for any firms who continue to knowingly tolerate racism. The risk of the financial or reputational damage resulting from a successful discrimination claim is currently too small to be a real incentive not to discriminate.
- The Commission needs to consider how it can most effectively ensure that those Industry firms who do not comply with the equality enactments are penalised for not doing so.

Monitoring

Conclusions

Assessing the relative contributions of the factors above to the under-representation of non-white ethnic minority workers in the Industry is a difficult task, compounded by the lack of accurate statistical and qualitative data.

There is a lack of widespread understanding in the Industry of the importance and effective use of diversity monitoring. This has been highlighted by the recent report produced for the Construction Industry Council Diversity Panel by the University of the West of England.¹⁰⁴

The lack of monitoring makes it difficult for the Industry and firms within it to pinpoint specific problems contributing to the under-representation of non-white ethnic minorities and to identify solutions.

In the absence of evidence through monitoring there is an increased risk that initiatives intended to address under-representation may miss their mark.

There was evidence which suggested that there is a lack of monitoring of progress of trainees and students into the Industry once they have left education or training.

Some witnesses to the Inquiry questioned whether national statistics relating to the Industry provided an accurate picture. Some witnesses suggested that numbers of non-white ethnic minorities working in the Industry were higher than national statistics suggested because those minorities are concentrated in low-paid non-craft jobs which are not Industry-specific, such as waste management or site security.

Information from Industry-wide monitoring of the workforce could provide further evidence to inform the development of the business case for diversity by identifying skills gaps and future skills shortfalls, building on work already being done by ConstructionSkills.¹⁰⁵

Information from Industry-wide monitoring of the workforce could also help identify whether there are particular problems in particular sectors or in particular parts of the supply chain.

Recommendations for key issues to be addressed

- There is a need to evaluate the accuracy of national statistics about the Industry to ensure they provide accurate information about those working in the Industry. This may in particular help identify whether there is a concentration of non-white ethnic minority workers in non-craft jobs on sites.
- There is an urgent need to increase the understanding and practice of diversity monitoring in the Industry. Without this it will not be possible for the Industry to pinpoint problems and identify solutions. Some organisations, for example ConstructionSkills, are adopting an evidence-based approach to ensure its initiatives are more effective.

¹⁰⁴ *Gathering and Reviewing Data on Diversity within the Construction Professions*, report for the CIC Diversity Panel by the University of West England, Bristol, Department for Architecture and Planning.

¹⁰⁵ ConstructionSkills – the organisation responsible for tackling the skills and productivity needs of the Industry – has identified that there will be a demand for skilled workers to join the Industry at an average rate of 37,000 per year between 2009 and 2013.

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- To be useful, there is a need for consistency of approach to monitoring. An Industry-wide approach is necessary, developed from existing Industry good practice and taking into account good practice in the public sector, informed by the non-statutory guidance on monitoring produced by the Commission for Racial Equality.¹⁰⁶
- There is a need for the Industry and those providing construction-related courses to work together to improve the tracking of progress of trainees and students as they move into the Industry. This would help to pinpoint where non-white ethnic minorities are lost to the Industry.

Influencing change in the Industry

Conclusions

The commercial imperative is paramount in the Industry. The need to win contracts and deliver projects on time in order to avoid penalties are the primary aims of firms in the Industry. The scale of public procurement within the Industry offers a substantial mechanism for change through the use of social clauses and contractual obligations relating to diversity.

There is some evidence of the successful use of procurement by public bodies influencing practice in the Industry. However, a number of witnesses to the Inquiry felt that public bodies could use their procurement power to greater effect.

The evidence highlighted the need to ensure that procurement leads to real changes in practice, rather than minimal compliance with contract terms in order to secure contracts.

While there is a recognition of a skills shortage, current or potential, in the Industry, this has not yet resulted in Industry-wide changes to recruitment and workforce development practices.

There is some evidence that the low probability that firms which discriminate will face Tribunal proceedings means that unlawful practices or behaviour such as racist banter is not challenged in some parts of the Industry.

Recommendations for key issues to be addressed

- The existing good work which has been done through use of procurement needs to be highlighted and further work done in order to identify what procurement practices and which contract terms relating to diversity are the most effective in bringing about change.
- There is a need to ensure that firms who successfully tender for contracts engage in genuine change rather than minimal compliance with contract terms relating to diversity. Work being undertaken to develop diversity via procurement, for example within the Department for Business, Innovation and Skills in collaboration with the British Standards Institute to develop a Publicly Available Specification for Pre-Qualification Questionnaires, is welcome and needs to lead to establishment of best practice in procurement.
- As highlighted in relation to race discrimination above, the Commission needs to consider how it can ensure that those who do discriminate are penalised for doing so.

¹⁰⁶ Available at: <http://83.137.212.42/sitearchive/cre/gdpract/monitoring.html>

- As referred to under 'Leadership' above there needs to be more work done to make the business case for diversity more apparent.

Next steps

Our Report has highlighted the persistence of the under-representation of non-white ethnic minority workers in the Industry, despite causes and potential solutions having been identified at least 10 years ago, and the challenges which this poses for the Industry and the Commission.

The next step for the Commission is to engage with Industry bodies and stakeholders, including relevant government departments, unions, education providers and careers advisers and key co-ordinating bodies like the National Apprenticeship Service and sector skills councils.

The focus of that engagement will be to address the question underlying the challenge to increase non-white ethnic minority representation, which is:

What makes change happen in the Industry?

This next phase of work will focus on the specific key issues we have outlined above for the Industry and the Commission, identifying who is best placed to lead on tackling those challenges and establishing a programme of action to deliver positive change.

It is our intention to report on this next phase of our work in January 2010.



Appendix 1

Evidence-gathering methods

Commissioned research

Equality Research and Consulting Limited (EQRC), part of Royal Holloway, University of London, undertook a thematic review of existing literature on racial diversity in the construction industry in England, Scotland and Wales.

EQRC's Report – *Race Discrimination in the Construction Industry: A Thematic Review* was published at the end of May 2009 and is available on the Commission's website at: www.equalityhumanrights.com

ICM Research Limited was commissioned to conduct some research that focused on the perceptions about the Industry among non-white ethnic minority groups and white people. The aim of this survey was to test whether lack of awareness of the Industry and/or adverse perceptions of the Industry contributes to the under-representation of non-white ethnic minorities in the Industry. The research comprised interviews with 652 members of the white community (aged 16–64) and 1,002 interviews among non-white ethnic minority communities (aged 16–64). The Research Report is discussed in more detail in Chapter 5 and the full results of the Research Report are available on the Commission's website.

Call for Evidence

In February we launched a Call for Evidence. This consisted of question forms seeking the views and experiences of those in or associated with the Industry. There were five tailored forms, each aimed at different types of organisations and individuals, including:

- those working in or training for the Industry, or considering doing so
- those who have left or decided not to join the Industry
- those providing training or advising on careers in the Industry
- construction businesses, and
- those supporting the workforce or the Industry.

The Call for Evidence closed on 24 March 2009. However, the Inquiry Team accepted any Call for Evidence forms that it received after this date. The Inquiry Team followed up Call for Evidence responses with face-to-face interviews where the evidence provided suggested that they may be a source of further information.¹⁰⁷

¹⁰⁷ The Inquiry received 27 Calls for Evidence.

On the record interviews

After 24 March 2009 the majority of our evidence-gathering was done by on the record interviews. We used these to:

- test the validity of the emerging findings
- fill the gaps in the evidence
- analyse the evidence and draw conclusions, and
- discuss possible recommendations with stakeholders.

In addition we used the meetings as a way of finding out about good practice and individual experiences of ‘what works’.

We sent targeted questionnaires to specific organisations where there was a gap in evidence from those organisations or we had specific questions to ask of them.

We held a number of meetings with organisations currently demonstrating examples of good practice and explored some individual case studies with them.

Stakeholder meetings

The Inquiry Team held meetings with key stakeholders to discuss the Inquiry aims and to identify how they could best contribute to the Inquiry. Among others, meetings took place with the BIS (formerly BERR) Construction Sector Unit, ConstructionSkills, the Union of Construction, Allied Trades and Technicians (UCATT) and the Union UNITE.

Appendix 2

Organisations providing evidence to the Inquiry

In addition to the individuals who contributed to our Inquiry, the following organisations also gave evidence:

Assessment and Construction Training Ltd	East London Line Balfour Beatty Carillion Joint Venture
Association of Colleges	East Potential
Bespoke Consultants	Elevate East Lancashire
Birmingham City Council	Emmanuel Whittaker Limited
Black Training and Enterprise Group	Glasgow Caledonia University
Bolton Community College	Gloucester Law Centre
Borders Construction Industry Forum	HT Forrest Limited
Business in the Community – Race for Opportunity Campaign	Information Commissioner’s Office
Carillion PLC – Rail Division	Jobcentre Plus
Colchester Institute	JTL
The Commission for Architecture and the Built Environment	Lakehouse Limited
Construction Industry Council	Leadbitter
Construction Youth Trust	London Development Agency
ConstructionSkills	MANCAT School of Building
The Department for Business, Enterprise and Regulatory Reform now the Department for Business, Innovation and Skills	North West Kent College
Department for Innovation, Universities and Skills	Oldham College
Diversity Strategy Group, hosted by Construction Youth Trust	Olympic Delivery Authority
	R&M Williams
	Rainbow Strand Limited
	Recruitment and Enterprise Confederation
	Scottish Building Federation

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South East England Development Agency

Staffordshire Highways, Staffordshire
County Council

Tai Pawb

Taylor Woodrow

TMS Equality and Diversity Consultants

Transport for London

Union of Construction, Allied Trades and
Technicians (UCATT)

UNITE the Union

West London College

Women and Manual Trades

Work 2 Work

Youth Build UK



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