

Mr Nick Griffin
Chairman
British National Party
PO Box 14
Welshpool
SY21 0WE

Our Ref: JW/SB

Date: 22 June 2009

Dear Mr Griffin

Letter before claim

I am writing to you as the chief legal officer of the Equality and Human Rights Commission (“the Commission”), prompted in part by your own recent references to the Race Relations Act 1976, for which we bear primary responsibility; and in part by complaints by organisations and members of the public about the constitution of your party.

For your information the Commission was established under the Equality Act of 2006 and has a statutory duty (by virtue of Section 8 of the Equality Act 2006) to encourage good practice in relation to equality and diversity, to enforce the equality enactments and to work towards the elimination of unlawful discrimination.

Background

As part of its statutory remit, the Commission from time to time monitors the actions and statements of political parties in order to assess whether their constitutions or activities may breach equality law. Preventing discrimination by political parties was one of the duties of our predecessor commissions and remains a duty of the Commission itself. The new proposals for general election voting reform have increased the importance of this duty.

**Equality and
Human Rights
Commission**

Arndale House
The Arndale Centre
Manchester M4 3AQ

Tel: 0161 829 8100
Fax: 0161 829 8110
info@equalityhumanrights.com

Your party has recently made successful gains for the first time in a national election. This has increased public interest and scrutiny. Partly as a result of this, the Commission has received complaints from individuals about the BNP's constitution and membership criteria.

You will understand from the above why it is the duty of the Commission to consider taking action to ensure compliance with the equality enactments although we hope that we will not need to take legal proceedings in this case.

The Commission thinks that the British National Party may be failing to comply with the Race Relations Act 1976, in several respects, relating to:

1. The BNP's constitution and membership criteria
2. The BNP's recruitment and employment policies, practices and procedures
3. The provision of services by elected officers to their constituents and/or members of the public

1. Constitution and membership criteria

The Commission is of the view that the constitution and membership criteria of the British National Party discriminate on racial grounds against individuals who do not fall within the membership criteria as specified in the BNP Constitution¹. The criteria appear to restrict membership to those within what the BNP regards as particular "ethnic groups", and in any event restrict membership to those whose skin colour is white.

In addition to the written constitution, we note the publication of an article on the BNP official website entitled "*Is the BNP racist?*" which refers to "the fact that the BNP has an all white membership".

The exclusion from membership of individuals whose ethnic origin is not listed constitutes unlawful discrimination on racial grounds (namely colour, race, nationality and ethnic and/or national origins) contrary to Section 25 of Race Relations Act 1976 which outlaws discrimination by associations.

You may be aware that, in a case on this issue funded by the Commission, the House of Lords held that political parties are

¹ Section 2 of 9th Edition 2005

'membership associations' and thus are prohibited from discriminating on the grounds of race : *Watt (formerly Carter) on behalf of other members of the Labour Party v Ahsan [2007] UKHL 51*.

It is also unlawful for anyone to advertise unlawful membership criteria by virtue of section 29 of the Race Relations Act.

As a political party with elected representatives providing leadership within Britain, you will appreciate the importance of the BNP operating a lawful membership policy that complies both on paper and in practice with the Act.

On the basis of the current constitution and membership criteria, the Commission thinks that the BNP may have committed and may be likely to commit future unlawful acts.

The Commission therefore requires a written undertaking on behalf of the BNP that:

- the BNP will amend its constitution forthwith and in any event by no later than 1 October 2009 so as to ensure and to make transparent that it does not discriminate against potential or actual members on racial grounds, and that
- pending the adoption of the amended constitution, the BNP will not refuse membership to any individual on racial grounds.

This undertaking must be received by 16:00 on 20th July 2009.

2. Recruitment and employment policies, practices and procedures

We note that the BNP is 'looking to recruit professional people in a number of areas' according to the careers information on the BNP's website. We are therefore concerned to note that the membership criteria also have application to the BNP's standard employment application form, in that it asks job applicants to supply a membership number. In addition there does not appear to be any open advertisement of posts. This would indicate that recruitment and employment opportunities may be limited to members of the BNP.

Given the restrictions on membership, in the BNP's capacity as an employer, the limitation of job opportunities to members of the BNP will constitute discriminatory arrangements for determining who should be offered employment contrary to section 4 of the Race Relations Act. In addition, the refusal or deliberate omission to offer employment on the

basis of non-membership or any difference in treatment in the terms of employment will contravene section 4.

On the basis of the current employment application form, the Commission thinks that the BNP may have committed and may be likely to commit future unlawful acts.

The Commission therefore requires a written undertaking on behalf of the members of the BNP that:

- the BNP will not discriminate contrary to the Race Relations Act in its employment and recruitment policies, procedures and practices.

This undertaking must be received by 16:00 on 20th July 2009.

3. Provision of services by elected officers

The Commission thinks that the BNP's elected representatives may not offer or provide services on an equal basis to their constituents and/or members of the public irrespective of race or colour.

According to a report of your speech printed in the Times on 10 June 2009, when speaking about the representation of constituents by the BNP, you stated that you: 'would expect ethnic minorities to continue to go to the Labour party'.

Equality of service provision by all elected BNP representatives and those working or acting on their behalf is essential in order for the BNP to comply with sections 19 and 20 of Race Relations Act 1976 and paragraph 3 of the Local Authority Model Code of Conduct.

The Commission thinks that the BNP may have committed and may be likely to commit future unlawful acts.

The Commission therefore requires a written undertaking on behalf of the members of the BNP that the BNP will not discriminate on the grounds of race or colour in the provision of services to constituents and/or members of the public through or by its elected representatives or those acting on their behalf.

This undertaking must be received by 16:00 on 20th July 2009.

Pre-action Protocol

Please treat this letter as a letter before claim in accordance with County Court pre-action principles.

Action to be taken

You, or another officer so authorised, should provide written undertakings for and on behalf of the BNP and its members in respect of each of the issues 1 to 3 above, in the terms stated above, which must be received by the Commission by no later than 16:00 on 20th July 2009.

Unless we receive the required undertakings, please note that we may issue, without further notice, an application for an injunction to restrain the BNP from committing unlawful acts.

This application will be issued without prejudice to the use of any other of the Commission's statutory enforcement powers.

It is our hope that litigation and/or enforcement action can be avoided in that your party will be willing to assure the Commission of its full compliance with the Race Relations Act.

Documents in your possession

Please forward to us any documents in your possession that are relevant to any of the issues of concern raised above.

The Claimant's address for service

The claimant's solicitor is: John Wadham, Group Legal Director,
The claimant's address for service is: Equality and Human Rights Commission, 3 More London Riverside, Tooley Street, London, SE1 2RG.

Ref: JW/LE/0609/IA/1534

Telephone number: 0203 117 0235

The defendant's address for service

The defendant's solicitor or legal representative is: *[please provide details]*,

The defendant's address for service is: Mr Nick Griffin, Chairman,
British National Party, PO Box 14, Welshpool, SY21 0WE

A copy of this letter has also been sent by first class post to the BNP's listed National Office at:

National Central Office
Admail 4148,
London
EC12A 1UY

Yours sincerely,

John Wadham
Solicitor
Group Legal Director