



# Report by the Race Relations Committee 2011–2012

TUC Black Workers Conference 2012



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Section one

# Report

## 1. Race Relations Committee

The General Council has been represented on the Race Relations Committee during the year by:

Billy Hayes	Tim Poil	Gloria Mills
John Smith	Mark Dickinson	Leslie Manasseh
Mohammad Taj	John Hannett	Fern McCaffrey
Eleanor Smith		

Members elected to serve on the Race Relations Committee at the 2010/11 Conference were:

*Pav Aktar	Public and Commercial Services Union
Dotun Alade-Odumosu	GMB
Pauline Anderson	napo
Indira Bhansali	Society of Radiographers
Gargi Bhattacharyya	University and College Union
Freddie Brown	Prospect
Lorna Campbell	Public and Commercial Services Union
Mark Clifford	UNISON
Michelle Codrington-Rogers	NASUWT
Collette Cork-Hurst	Unite
Floyd Doyle	Associated Society of Locomotive Engineers and Firemen
Sarah Guerra	FDA
Sharon Harding	GMB
Zita Holbourne	Public and Commercial Services Union
Betty Joseph	National Union of Teachers
Michael Nicholas	Fire Brigades' Union
Winston Phillips	Broadcasting, Entertainment, Cinematograph and Theatre Union

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Ian Taylor                      Communication Workers' Union  
Nazerin Wardrop              Unite  
Maureen Williams              Usdaw

Gloria Mills was elected as Chair and Sarah Veale, Head of the Equality and Employment Rights Department, served as Secretary. Members of the Equality and Employment Rights Department working with the Committee during the year were Wilf Sullivan, TUC Race Equality Officer, Carol Ferguson, Departmental Secretary and Jane Cook, Administrative Assistant.

\*Co-opted to the committee to fill the vacant Section D seat following a request to affiliates for nominations.

### 2. Black workers and the cuts

A number of motions at the 2011 TUC Black Workers Conference raised concerns about the impact of the government's spending cuts on various parts of the public sector and called on the Race Relations Committee and TUC to resist the cuts through campaigning and use of the public sector equality duty.

Following on from the 26 March 2011 All Together for Public Services march and rally the TUC has continued to campaign against cuts in public spending and highlight the effects of the austerity programme. The key objectives of the campaign strategy have been to shift public opinion, so that people believe that there is an alternative to the cuts and to put pressure on the coalition in marginal seats. The General Council has recognised that equality needs to be a key element of the TUC's campaign work. This has highlighted the need for trade unions to undertake community organising. The TUC has employed a small number of community organisers to assist regions and unions to build coalitions with local community campaigns against the cuts. As part of this strategy the TUC General Council is evaluating the campaign's effectiveness on an ongoing basis.

As part of its anti-cuts work, the TUC commissioned Stan Greenberg and James Murray to undertake extensive polling on the effectiveness of trade union messages against public spending cuts and explore some of the messages that might help to change the public's mind. The polls have revealed that the government is winning the argument about the need for an austerity programme. However they are vulnerable to arguments that they are not building an economy for the future and that they are ideological in their approach to public service reforms. The poll has also revealed that trade union general secretaries are not the best people to put our message across and that there is a need to move the campaigning on from the issue of the deficit.

The TUC has been exploring ways in which the impact of the cuts on black communities can be measured and has worked with the Runnymede Trust to develop a project which will be able to assess the impact of cuts on black workers. The project, called In this Together, is being co-ordinated by the TUC and is being funded by UNISON, Unite, NASUWT, PCS and the TUC.

The overall aims of the project are to assess the impact of public sector cuts on the workforce, make the equality impact of the cuts transparent, especially as they are affecting black workers, use the information to influence decision making processes and complement the existing efforts to map the impact of the cuts on services.

The project is working to collect data from 1,000 unionised workplaces, mainly through working with the partner unions, to assess the impact of the profile of the workforce on race, gender, disability, age and where possible sexual orientation and religion and belief. The initial assessment of workforce impact will be for the period between January 2011 and December 2011. When the information is collected the project will publish the information through a public online portal where viewers can see a map of the impact of cuts. A number of analytical reports on the impact of the cuts will be published, 12 human interest/case studies will be collected and selected to use as counter arguments on how the cuts are being made and guidance for union reps to understand and report on the impact of the cuts on race equality will be produced.

The objectives of the project are to raise the level of awareness of the equality impact of workforce cuts, increase the level of awareness of tools such as equality impact assessments and monitoring, that can be used to challenge inequalities that arise in the cuts process, to promote the use of equality impact assessments in collective redundancy consultations and raise awareness in unions of the importance of using equality data in collective bargaining on workforce issues.

The Race Relations Committee believes that the project is an important part of the strategy to fight the cuts as there is a real need for empirical data on what is happening to black workers in public services in order to demonstrate how the cuts are disproportionately affecting the black community.

### 3. Black workers and the labour market

The TUC has continued to lobby the government through the Ethnic Minority Advisory Group (EMAG), which is sponsored by the Department of Work and Pensions. Wilf Sullivan, TUC Race Equality Officer and Collette Cork-Hurst, Unite National Officer for Equalities and a member of the TUC Race Relations Committee, remain members of the reconstituted advisory group and during the last year were active in working groups looking at women and employment and skills/education.

As a result of trade union input the working group on women and employment is looking at making recommendations to EMAG that raise awareness about the gender pay gap suffered by black and minority ethnic women. The skills/education group is undertaking work on apprenticeships with a view to making recommendations to the government about ensuring that the 100,000 new apprenticeships announced by the government are accessible to young black workers.

However, a recent review of EMAG resulted in decisions to reduce the size of the group and focus two thirds of its time on trying to influence the DWP's proposed core areas and significant programme of change, namely contract provision e.g. the Work Programme, Job Centre Plus and Universal Credit.

### 4. Apprenticeships and youth unemployment

In February 2011 the coalition government Minister John Hayes announced that the Government would “increase the budget for apprenticeships to over £1,400m in 2011–12, helping to create a new generation of skilled workers to drive economic growth”. This increase is an extension to current government apprenticeship schemes that are coordinated by the National Apprenticeship Service (NAS) and the money is aimed at creating 100,000 extra apprenticeships by 2014.

The TUC has had a long standing concern about the difficulties young black workers face gaining access to both employment and decent quality government training schemes. As far back as 2004, in its report *Moving On*, the TUC highlighted concerns that welfare to work and the New Deal Programme had poorer outcomes for young black workers. In 2005, through its report *Workplace Training – a Race for Opportunity* the TUC called on the Government to use public procurement as a lever to improve the employment of black workers and to boost training, apprenticeships and skills levels.

More recently the TUC, through its participation in the Ethnic Minority Advisory Group (EMAG), has highlighted the need for government action to increase the employment prospects for young black workers through improving access to decent apprenticeships and the need to make sure that they do not miss out in the expansion of the apprenticeship scheme.

Government figures published in February 2012 saw unemployment rates rise to a 17 year high with 2.67 million out of work. The figures on youth unemployment demonstrated that young people were bearing the brunt of unemployment with 1.04 million 16- to 24-year-olds out of work. This has exacerbated the situation in black communities, where high levels of worklessness already existed and where, for young people, gaining access to work was already a problem. A report published by the Institute of Public Policy Research in January 2010 showed that almost half (48 per cent) of



black people aged between 16 and 24 were unemployed – compared to the rate of unemployment among white young people which stood at 20 per cent.

The previous government acknowledged the lack of involvement of young black workers in apprenticeships and put in place plans to commission a number of diversity pilots that would run over a period of four years, designed to improve participation in apprenticeships. The current government has put in place the diversity pilots but has only funded the programme for a year, although there is the possibility that they may provide a further 12 months' funding.

The National Apprenticeship Service tender identified that:

- “Black and Minority Ethnic (BME) young people are badly under-represented in apprenticeships, compared with their numbers in the population as a whole. They are under-represented in the ‘traditional’ craft-based sectors and particularly in some of the more ‘modern’ frameworks, such as customer service (6 per cent) and hospitality (3 per cent),”
- “BME apprentices are also more likely than other apprentices not to progress to a related job after completion of their framework. They are also less likely than other young people to gain an apprenticeship after completing a pre-apprenticeship course.”

The TUC, through its participation in the EMAG skills and education sub group, has worked to make the issue of black workers' involvement in apprenticeships one of the priorities for the Ethnic Minority Advisory Group. As a consequence of this requests have been made for comprehensive monitoring data on the involvement of black workers in apprenticeships by age, gender and sector by the Department of Work and Pensions (DWP) and the Department for Business Innovation and Skills (BIS). What has emerged is that there is very little detailed information kept by the government on black workers' involvement in apprenticeships and the information that does exist tends to focus on apprenticeship starts.

As well as problems relating to the difficulties of obtaining work-based apprenticeships, the data that is available shows that black workers suffer from job segmentation in the apprenticeships, with customer service apprenticeships accounting for 14 per cent of all ethnic minority starts, compared to 10 per cent for white people whereas construction accounts for 5 per cent of all white apprenticeship starts, but only 2 per cent for ethnic minorities; within construction apprenticeships, ethnic minorities only account for 4 per cent of all starts, despite accounting for 13 per cent of the 16–24 population.

In September 2011 the TUC organised a half-day conference called Apprenticeships for All, which was organised as a joint event between the TUC, Versa Professional Services (one of the equality pilot companies), Unionlearn and SERTUC. The event was aimed at union activists and negotiators, learning reps, equality reps, black activists and employers. It highlighted the need to increase black participation in apprenticeships and to

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identify some of the barriers that need to be tackled in order for young black workers to get a fair deal.

The TUC also published a briefing for trade union reps and negotiators that highlighted the need for urgent action to ensure that black workers do not disproportionately continue to miss out on the benefits that apprenticeships can offer. The briefing contained a checklist designed to provide union negotiators, workplace reps, learning reps and equality officers with a starting point to assist with the development of a bargaining agenda that is focussed on providing access for black and minority ethnic apprentices into union organised workplaces.

A further event was organised in February 2012 by unionlearn SERTUC and the Stephen Lawrence Charitable Trust, which focussed on different approaches to apprenticeships, apprentices progressing to higher levels and looked at how apprentices can be supported and mentored.

The TUC is continuing to campaign and highlight four main issues which are:

- the need for comprehensive monitoring systems to enable the National Apprenticeship Service and the Government to assess how their strategy on increasing diversity in apprenticeships is working
- the need to ensure that black workers gain access to good quality apprenticeships and that mechanisms are put in place to ensure that discrimination by employers is tackled so that they are able to obtain workplace placements
- the need to ensure that young black women are able to access the full range of apprenticeships and do not suffer labour market segmentation in relation to access to training on the basis of their gender
- the need to focus on outcomes as well as apprenticeship starts to ensure that black apprentices graduate to full-time jobs or higher learning.

The Race Relations Committee believes that without strong union intervention at workplace and public policy level it is likely that young black workers will miss out on the expansion in apprenticeships and that, where they do engage with schemes, are at risk of only being offered short-term low-quality apprenticeships that do not lead to employment.

### 5. Proposed reforms to employment law

The Race Relations Committee has been concerned about the proposals that the government has published to change current employment protection legislation and the impact that these changes could have on black workers and equality more generally.

The government is claiming that the proposed reforms to employment law are being introduced to increase flexibility for employers and employees. Part of the consultation on what should be changed had been run under the auspices

of the Red Tape Challenge. The possible changes to employment law could affect three areas: employment tribunals, job security rights and collective consultation rights.

The government is proposing introducing fees of £100–£200 to file a case at the employment tribunal and a further fee of up to £1,000 for a full hearing. As part of the fees regime they are proposing to introduce a remissions system, which would mean that households that had an income of less than £13,000 a year would not have to pay. The TUC is concerned that a means-tested system will cause problems for trade unions, as members would not necessarily want to disclose their household income. The TUC was also concerned about the equality effects of these changes, especially in relation to gender, as this would hinder a woman's ability to submit cases independently, because partners were often higher earners.

As part of the system of fees, the government is proposing to introduce higher level fees for equality cases, which they regard as time consuming and more costly because of their complexity. The TUC has argued in its response to these proposals that fees would price working people out of access to justice; seriously deter individuals from enforcing their rights; and impact disproportionately on low-paid and disadvantaged groups.

As part of its proposed reform of employment law the government is seeking to make it much easier for employers to sack workers, on the basis that this would encourage employers to hire more workers. The TUC is concerned about proposals to remove lay members from sitting in cases of unfair dismissal. Research has shown that this is the area where the practical experience of lay member's involvement in the workplace was most useful in enabling tribunals to come to sensible decisions about unfair dismissal. The government has also lengthened the qualifying period for unfair dismissal from one year to two years from 6 April 2012 and is considering introducing "no-fault compensated dismissals" whereby employers who had fewer than 10 workers would be allowed to sack people for any reason as long as they gave them statutory redundancy pay.

The TUC is concerned about the discriminatory effect this change would have on young workers and black workers as they are disproportionately represented among those in short-term and temporary employment. The TUC has argued that there was no evidence that this would increase employment opportunities but rather encourage bad practice among small employers and was planning to run a public campaign against the unfair dismissal proposals if the government tried to introduce no-fault dismissals.

As well as attacking facility time for trade union reps, the government were proposing to narrow the scope of TUPE, which would result in the exclusion of some service sector workers, such as those doing cleaning and catering, from being covered by the regulations. The TUC is concerned that this could lead to a harmonising downwards of terms and conditions for those workers affected

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and that what was being proposed was in breach of the European directive on the transfer of workers.

There are also proposals to weaken redundancy consultation, with the period for consultation being reduced from 90 days to 45 or 30 days. The government is also considering changing who could be consulted, to widen out consultation from being just with trade unions where they were recognised in an attempt to undermine industrial relations in organised workplaces

The TUC believes that these proposed changes will be in conflict with the provisions of the equality duties and wider industrial relations law. While it is not proposed to run legal action directly, the TUC is encouraging the legal community to consider pursuing cases on access to justice. The TUC will published a briefing on these changes and will be co-coordinating trade union lobbying in the spring of 2013 when these changes are likely to be considered by Parliament and will also consider co-ordinating potential challenges to the European Commission on the proposed changes to the TUPE Regulations and collective consultation proposals.

There is a need for unions to consider what other strategies they can use at the workplace and how to equip trade union reps to operate more effectively on collectivising issues in the workplace, as the TUC believes that there is a need for affiliates to focus on how they could use the collective consultation rights that currently exist more effectively.

### 6. Combating the far right

Combating the far right continues to be a priority for the General Council. The TUC's activity is based on a strategy of building an activist base through educating trade union activists and members in the workplace and building unity by working with anti-fascist organisations. The TUC continues to work with Unite against Fascism (UAF) and Hope Not Hate by organising joint activities and supporting events at a regional level and local level through Regional TUCs.

Until 2010 the major focus of the campaign against the far right has centred on the British National Party (BNP). Their failure to make electoral progress in the general and council elections held in May 2010 continued into the council elections in May 2011, where they managed to field only about 250 candidates compared with approximately 700 in the equivalent polls in 2007. In Stoke-on-Trent the BNP lost all five of its sitting councillors and failed to hold onto any of the seats it was defending. Its only victory came in Queensbury, West Yorkshire.

Since the May 2011 elections, the BNP has been hit by internecine strife with a string of senior figures leaving the party and defecting to other parties such as the newly formed British Freedom Party, because of serious concerns about the way the party's finances have been handled and because of the failure of Nick

Griffin's election strategy. In the summer of 2011 the BNP held a leadership contest. This was partly as a result of changes in the constitution that had been forced on the party by the legal action taken by the Equality and Human Rights Commission about the racist nature of its constitution and partly as an attempt by Nick Griffin to re-establish his legitimacy as leader of the party. Griffin was re-elected in July 2011, beating his fellow MEP Andrew Barons by nine votes.

The TUC is working with UAF and Hope Not hate in the run up to the May 2012 local and London mayoral elections, with the aim of organising to defeat them in the five seats they are defending and ensure that they do not regain a seat on the London Assembly. Both organisations are planning a number of days of action in constituencies where there is a need to turn out voters against the BNP. The TUC will be encouraging trade unions to participate in these days of action and will publicise the events on its website.

The TUC has become increasingly concerned about the activities of the English Defence League (EDL). The EDL, which acts as a street army for the far right, is made up of BNP activists, football hooligans and others from extreme right wing organisations. In 2011 the EDL were increasingly targeting black communities for their street protests and this culminated in them organising a march and rally in Tower Hamlets in September 2011. Pressure from the local community and anti fascist campaigners resulted in the march being banned but a static demonstration still took place, where EDL leader Tommy Robinson was arrested, along with 72 other EDL members, before the racists and fascists were escorted away by police. A large counter demonstration, which was organised with the help and support of SERTUC, made it clear that the EDL were not welcome in Tower Hamlets. The TUC continues to be concerned about the EDL and other right wing-groups which are seeking to exploit recent court cases that have taken place in the North West around grooming. These have led to the EDL organising demonstrations that have often resulted in racist attacks against members of the local community.

A further concern of the Race Relations Committee and TUC has been the worsening situation in Europe. The English Defence League have been instrumental in spreading a model of street demonstrations and rallies on nationalist platforms involving football hooligans and extreme right-wing thugs to other countries, especially in Northern Europe and Scandinavia. A disturbing development was the European Counter Jihad meeting which took place in Aarhus at the end of March 2012. Organised by the EDL the meeting saw 10 European far-right and fascist organisations come together to develop closer links. In the event fewer than 200 EDF members turned up and a mobilisation by anti-fascist organisations attracted thousands.

In the European Parliament a new grouping of far-right parties, the European Alliance of National Movements (EANM), has succeeded in obtaining a financial subsidy from the European Parliament. The EANM, a pan-European

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political coalition of far right parties, will receive a subsidy of 289,266 Euros from the Parliament's 2012 budget. This is the first time that a far-right coalition has succeeded in obtaining European Parliament funding. Although the EANM applied for funding last year the application was rejected as it did not meet the conditions. The EANM does not qualify for group status in the European Parliament as it does not have the required 25 MEPs from at least seven member states. The current eight far-right MEPs from three countries sit in the non-aligned 'group'. The EANM's parties are:

- National Front – Belgium
- Jobbik – Hungary
- Tricolour Flame (Fiamma Tricolore) – Italy
- National Renovator Party – Portugal
- Republican Social Movement – Spain
- National Democrats – Sweden
- All-Ukrainian Union “Svoboda” – Ukraine
- British National Party – UK

The French Front National was a founder member of the EANM but it seems they, or at least Marine Le Pen, defected to the European Alliance for Freedom (EAF), a pan-European political party of right-wing euro sceptics, which includes UKIP, last year. This is yet another worrying development illustrating the far right's gaining momentum and improving organisation across Europe.

Objections to the funding of the EANM from anti-racist groups in Finland and Hope Not Hate in the UK have resulted in the European Parliament referring the matter to the Council of Presidents and a decision being taken to review the rules for funding parties.

The Executive Committee of the European Trade Union Confederation (ETUC), as part of a resolution on economic and social crisis, is launching a campaign for Growth, Jobs and Europe – and against nationalistic, racist forces in Europe. The ETUC recognises that the economic policies of harsh cuts in a recession resemble those of the 1930s, which led quickly in that decade from economic disaster to political catastrophe as the forces of nationalism, racism and militarism flourished. The Executive Committee has resolved that this must not happen again and the ETUC must play a prominent part in ensuring that it does not. The TUC and Race Relations Committee will be examining how they can work with the ETUC to share the UK experience of anti-fascist campaigning and help to ensure that this campaign is effective in the UK and across Europe.

## 7. Public sector equality duty

The TUC Race Relations Committee has continued to be concerned about issues that have emerged in the implementation of the Equality Act 2010. The Committee was disappointed that in its Plan for Growth which accompanied the Budget 2011, the Government announced that it would not commence the dual discrimination provision that would have allowed individuals to bring discrimination claims where they had been treated less favourably because of a combination of two protected characteristics.

The TUC welcomed the new public sector equality duty which replaced the race, disability and gender equality duties from 5 April 2011 (s.149 EA 2010). This required public bodies to pay due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. Voluntary and private sector organisations that carry out public functions are also bound by the duty when carrying out those functions. The duty applies to eight protected characteristics: age, disability, gender, gender reassignment, maternity and pregnancy, race, religion or belief and sexual orientation.

However the current government proposed very weak specific duties to support the new generic duty in s.149. It proposed just two specific duties: a duty to publish information related to the protected characteristics of an organisation's service users and workforce (where there are more than 150 employees) and a duty to set one or more equality objectives to help fulfil the s.149 duty, which has to be reviewed at least every four years. It said this new approach to the specific duties would help remove "wasteful bureaucracy".

The General Council argued strongly against the proposed specific duties when it was first consulted on at the end of 2010 as it believed they did not fulfil the purpose of providing guidance to public bodies about what they needed to do to fulfil the duty in s.149 of the Act and so would lead to more non-compliance and place public bodies at greater legal risk. In response to this consultation, the Government Equality Office (GEO) improved the draft regulations, taking on board some of the criticisms made and strengthening the connection between the specific duties and the legal requirements of s.149.

These improvements were reversed when it published a policy review paper, announcing a "re-think" in March 2011. The draft regulations included in the policy review paper set out even weaker specific duties than those first proposed. The GEO said it had felt there was more opportunity to strip out bureaucracy. The TUC submitted another detailed response to the policy review paper and attended stakeholder meetings at the GEO, arguing strongly against the weaker specific duties but in June 2011 the regulations were laid before Parliament without any substantive changes.

In the absence of strong and detailed specific duties, the TUC recognised that it was important for union officers and workplace representatives to understand what the s.149 duty to pay "due regard" to equality means in practice. In June

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2011, the TUC organised a seminar with John Halford, a partner from Bindman's solicitors, who litigated the first race equality duty and disability equality duty cases and had run a number of successful public duties cases since. He provided an overview of the key principles of "due regard", drawing on successful case law examples such as the challenges to cuts in social care, welfare advice services and funding for voluntary organisations.

He produced a paper that was circulated to public sector unions and equality officers. The paper made clear that in order to show due regard, organisations must consider the impact on equality before a decision is made, that decision-makers need to be aware of and understand the requirements of the duty, that sufficient information needs to be gathered by the public authority to properly consider the impact on equality, and that if a negative impact is identified then actions to mitigate that impact must be considered, and that organisations should document this information and consideration otherwise it would be difficult for a court to conclude that they had shown due regard.

Following on from it the seminar the TUC published the Equality Duty Toolkit in July 2011, to provide guidance on the new public sector equality duty, including what "due regard" means in practice. The toolkit is aimed at trade union negotiators to help them understand the new public sector equality duty and how they can use it. In the autumn of 2011, the TUC also published an updated Guide to Equality Law to provide practical guidance on the Act for workplace representatives and union officers.

### 8. Reform of the Equality and Human Rights Commission

The Race Relations Committee, while acknowledging the investigations that cover race equality in a number of industrial sectors, most recently the meat processing sector, continues to be concerned about the lack of enforcement action taken by the Commission and the lack of focus on race, despite the appointment of Simon Woolley as a Commissioner, who is taking a lead on race equality.

The TUC is also concerned about the future effectiveness of the Equality and Human Rights Commission (EHRC) in the light of government proposals to amend its remit and the funding cuts that have been imposed on the organisation. In March 2011 the Government Equalities Office (GEO) published a consultation paper called Building a Fairer Britain: Reform of the Equality and Human Rights Commission. As part of the consultation the government was proposing to:

- narrow the statutory duties of the EHRC by amending the Equality Act 2006
- give the Secretary of State more power over the EHRC's business plan and how it spends its money
- remove the helpline and grants programme, which has provided public



funding for discrimination cases across the country and enabled capacity building and promotional work to the voluntary and community sector.

In its response to the consultation the TUC argued that if there was to be any legislative change it should be to strengthen the enforcement powers of the EHRC and in responding to the specific proposals commented that:

- It was not evident that amending the statutory duties would lead to more effective enforcement work by the EHRC. Legislative change that the TUC believed could improve enforcement, but which is not considered in the consultation paper, would be to revise the enforcement powers of the EHRC so that it can more easily and quickly investigate whether unlawful acts have occurred and take prompt action if they have.
- The TUC believed that the proposals aimed at achieving greater value for money and accountability open the door to greater ministerial interference in the operational management and direction of the EHRC and that the proposed changes were unnecessary as steps had been taken and there were sufficient mechanisms in place to ensure better accountability and governance.
- The TUC considered the provision of frontline support for victims of discrimination to be a core function of an independent, statutory equality and human rights body. Therefore, the helpline and grants programmes should remain within the EHRC. Further, that the European equality directives required national equality bodies to be established “to provide independent assistance to victims of discrimination in pursuing their complaints”. There was very little information in the consultation paper about possible alternative provision and how the EHRC could be said to be giving independent assistance to victims of discrimination in the absence of a helpline it has direct control of and without the resources to fund other legal advice and support on discrimination issues.

Although the government still has not published its response to the consultation eight months on, the Commission is closing its regional offices and the Government Equalities Office confirmed in an announcement in December 2011 that it would no longer fund the EHRC’s helpline and its grants programmes. No alternative funding has been provided to replace the EHRC’s grants programmes, which means the loss of funding for discrimination casework by law centres, race equality councils, CABs and many other voluntary sector organisations working in the equality field around the country. (N.B. although the GEO announcement talks of legal aid being available for discrimination cases it is only available pre-claim and is not available for representation).

The GEO has tendered for a new Equality Advisory and Support Service to replace the EHRC’s helpline. The contract specification says that in most cases, individuals will not contact the service directly but will be referred by organisations like advice agencies, voluntary sector organisations and “trade unions”. The service will not provide bespoke legal advice but will explain the

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law and how it applies to an individual's case, confirming whether there is a potential discrimination claim. In work-related cases, individuals will be referred onto Acas for pre-claim conciliation if internal grievance procedures have been exhausted. The TUC raised concerns with the GEO in meetings in July 2011 about the closure of the EHRC helpline and the proposed new service but these were not heeded.

The TUC has continued to raise its concerns and sent a letter from Brendan Barber, TUC General Secretary, to the Home Secretary, Theresa May, on 13 February 2012 expressing concern at the cuts to staff and funding at the EHRC and calling on the government to publish its response to the consultation on EHRC reform.

The TUC has also supported the campaigns being run by the Public and Commercial Services Union, who along with Unite represent staff at the EHRC. The campaign, which has included industrial action in 2011 and 2012, is being run to protect jobs and services at the EHRC.

### **9. Stephen Lawrence legacy**

The conviction of Gary Dobson and David Norris, two of the five men involved in the murder of Stephen Lawrence, brought the issue of institutional racism back into national focus and helped to counter the political context, wherein politicians and policy makers have asserted that we are living in a post-racial society. TUC General Secretary Brendan Barber wrote to Doreen Lawrence after the trial welcoming the convictions but recognising that this was only a partial victory for the campaign to bring Stephen's murderers to justice.

The TUC Race Relations Committee believe that that the issues and recommendations identified in the Stephen Lawrence Inquiry remain relevant in the current climate of cuts in public services, welfare support and the high levels of youth unemployment, especially in black communities.

The Race Relations Committee is focussing on two areas of work supporting the legacy of the Stephen Lawrence. These areas are supporting the work of the Stephen Lawrence Trust and examining the progress that had been made within the trade union movement in the light of the TUC Stephen Lawrence Taskforce recommendations.

The Stephen Lawrence Trust and Centre have been funded through the Big Lottery, local authority grants and charitable donations. However, in common with all charities, donations have declined significantly as a result of the recession and support from public authorities and other public bodies has suffered because of public sector spending cuts. This has left the Trust short of income and with a need to raise £200,000 in order to continue their current activities.

In order to support the work of the Stephen Lawrence Trust the Race Relations Committee decided to launch a trade union fundraising appeal behalf of the Trust to coincide with the 2012 TUC Black Workers' Conference. The appeal will be organised along similar lines to TUC Aid appeals. This will involve a direct appeal to national trade unions through a letter from Brendan Barber, an appeal to trade union committees and branches through the use of a leaflet, and an appeal through the TUC website aimed at individuals, which would be linked to the Stephen Lawrence Trust's 'Just Giving' account.

The Race Relations Committee is also focussing on the outcomes of the TUC Stephen Lawrence Task Group which was established in 1999 and presented its findings to the TUC Congress in 2000. The Congress adopted two outcomes recommended by the Task Group: to change the TUC's rules to include a commitment "to promote equality for all and to eliminate all forms of harassment, prejudice and unfair discrimination, both within its own structures and through all its activities, including its employment practices" and the establishment of the TUC biennial Equality Audit. The Task Group also published an overall TUC Action Plan and related action plans in relation to TUC Education for workplace reps and specific training for full-time Black and Asian officers.

The TUC action plan covered three areas, Action through Partnership, Services to Unions and TUC Action. Although many of the recommendations were implemented, some of the initiatives did not continue in the longer term. The TUC is continuing through its education programme to educate workplace reps on the issue of racism in the workplace. A new edition of the TUC Education workbook *Tackling Racism* was launched by poet Lemm Sissay at this year's unionlearn conference. The workbook, which was one of the outcomes of the original TUC Stephen Lawrence recommendations, was promoted across the country through a series of regional events and will be integrated into TUC Education courses.

The TUC has also launched an Equality Diploma designed to bring together all the threads of the equality agenda, so that reps have a thorough grounding in union policy, best practice and equality law. The Diploma is designed primarily for experienced trade union reps whose role would benefit from a wider understanding of equality issues. It is intended to help students understand equality issues in the workplace, current equality legislation and how it can be applied to their own organisation.

In reviewing the Task Group's work the Race Relations Committee has decided to carry out a detailed examination of the recommendations, to see if those that were actioned have been effective, look at the recommendations that have not been taken forward to decide if they are still relevant and if so, plan a strategy on how to take the overall work of the Task Group forward in the current context.

The Race Relations Committee has established a working group to undertake the work and will be considering the outcomes of their work at a half-day seminar, which will aim to formulate a updated Stephen Lawrence strategy. The strategy will form the basis for the Committee's work with trade unions, to help encourage the building of black organisation and participation in the future.

The Race Relations Committee continues to be concerned that a major outcome of the McPherson Report, the need to tackle institutional racism, is something that the current government and policy makers continue to ignore and believe that in the current climate it is important that trade unions continue to fight for and highlight the need to deal with institutional racism if the gains that have been made over the last twenty years are to be maintained.

### 10. 2011 Equality Audit

The TUC Equality Audits began in 2003, following a rule change adopted by Congress in 2001, which was recommended by the TUC's Stephen Lawrence Task Group. This made it a requirement of affiliation to the TUC for a union to have a clear commitment to promote equality for all and to eliminate all forms of harassment, prejudice, and unfair discrimination, both within its own structures and through all its activities, including its own employment practices.

The 2011 Audit focused on the former, with questions asked about the pursuit of equality in unions' structures, campaigning and organising work, membership services and training and employment practices. The last time such an audit was carried out was in 2007, so the 2011 audit enabled comparisons to be made with unions' activities four years ago.

Completed questionnaires were received from 48 out of the 55 affiliates, representing 87 per cent of affiliates (the same response rate as in 2007). In terms of membership, this represents 97 per cent of all TUC-affiliated union members because of the high response rate of large unions.

The key findings, with a particular focus on race were:

- 44 per cent of unions had a rule related to membership of a far-right political party, an increase from 33 per cent in 2007.
- 44 per cent of unions monitor their membership by race, which is about the same as in 2007. There was no change in the proportion monitoring their conference delegates (38 per cent) and their national executive committee members (56 per cent) by race.
- However, there was an increase in the proportion of unions monitoring their shop stewards (42 per cent up from 31 per cent), health and safety reps (31 per cent up from 25 per cent), ULRs (33 per cent up from 20 per cent) and branch officials or officers by race (35 per cent up from 29 per cent) compared to four years ago.

- 44 per cent of unions undertook membership recruitment activities targeted at black workers, which was an increase compared to four years ago when 33 per cent did so. There was an increase in targeted recruitment activities for women, disabled, LGBT and young members too. However, unions were less likely to specifically target migrant workers for membership, with the proportion doing so falling from 38 per cent in 2007 to 31 per cent in 2011.
- 38 per cent of unions specifically targeted black members to encourage them to stand for reps positions and this was unchanged since 2007.
- A higher proportion of unions employed an equality officer with specific responsibility for black members in 2011 (27 per cent compared to 15 per cent four years ago). There was also an increase in the number of larger unions employing regional race equality officers (20 per cent up from 15 per cent four years ago).
- More unions have a rule or practice of having workplace equality reps (42 per cent compared to 35 per cent four years ago).
- Half of unions had a committee for black members, compared to 62 per cent four years ago. There was also a decline in the proportion of unions with separate committees for disabled members and LGBT members.
- There was an increase in the proportion of unions with reserved seats for black members on national executive bodies (25 per cent up from 20 per cent in 2007), delegations to union conferences (19 per cent up from 15 per cent) and delegations to TUC Congress (19 per cent up from 13 per cent).
- 42 per cent of unions hold a national conference or seminar for black members, which is unchanged since 2007.
- 44 per cent of unions monitor their staff by race, which was a decrease since 2007 when 49 per cent did so.
- Fewer unions were providing the following membership services targeted at black members: legal services/benefits (11 per cent down from 21 per cent), regular publications (40 per cent down from 50 per cent) and website areas (54 per cent down from 59 per cent).
- However, there was an increase in the proportion providing phone helplines specifically for black members (20 per cent up from 9 per cent) and trade union training targeted at black members (34 per cent up from 24 per cent).
- More unions had taken steps to encourage black members to participate in trade union training and education (38 per cent up from 25 per cent four years ago).
- There was a significant increase in the proportion of unions monitoring the number of discrimination cases they take to tribunal, with 52 per cent monitoring the number of race discrimination cases taken compared to 25 per cent in 2007.

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As well as statistical data, the full audit report included many good practice examples from different unions about how they are furthering race equality through all their different internal structures and activities.

The Race Relations Committee examined a further report from the Labour Research Department that provided a more detailed analysis of the information provided by affiliates in the 2011 TUC Audit and extracted as much data as was possible on black members. The report investigated how black members were fairing in union structures, including as stewards, learning reps, safety reps, branch officials, equality reps and union conference delegates. It also examined the proportion of black members who were in membership and also on union national executive committees.

The data showed that fewer than 50 per cent of affiliates had statistical records for black members and that only 15 unions could actually provide the information requested. The Race Relations Committee believes that there is a need to highlight the importance of ethnic monitoring and is considering how to encourage all unions to carry out comprehensive monitoring of black members, in order to ensure that they were making progress in involving black members at all levels of their structures.

The next Equality Audit, which will focus on how unions are pursuing equality through collective bargaining, will be brought forward from 2013 to 2012. This is so that in future the Audits will coincide with the larger Congress rather than the smaller 'new style' Congress that was held in Congress House for the first time in 2011. Bringing it forward will also enable the TUC to gather evidence from unions on what impact current public spending cuts, public service reform and the recession are having on equality bargaining.

The TUC has recognised the need to do further work to encourage unions to use the audit more effectively and are planning to hold a seminar with affiliates after each audit to discuss the results and debate with unions how they can use the audit information to improve representation.

### **11. Race equality and mental health**

The Race Relations Committee has continued to be concerned about the impact of mental health in the workplace and met with MIND to discuss the issues and consider whether there were ways in which black trade unionists could support the work it was undertaking.

MIND has a team called Diverse Minds that works specifically on race and mental health and challenges racial disproportionality in the mental health system. The team is also working on the access needs of refugees/ migrants who are vulnerable and often have difficulty in gaining much needed mental health services. They are also looking at the occurrence of mental health problems among the dual heritage population.

Research has established that one in six workers experience mental health problems, but eight in ten employers have no formal policy. The recession is having an impact on mental health at work. A recent CIPD report identified that stress is the biggest cause of absence. Workers are afraid to disclose mental health problems in case they get a negative reaction from their employers. Research shows that this is true and that employers view people with mental health problems as a risk and that workers experience negative attitudes from co-workers.

Twenty-eight per cent of non white workers report high levels of stress compared with 19 per cent of white workers and 36 per cent among black Caribbean people. Black women in particular are likely to suffer from stress in the workplace. This is consistent with the fact that people who had experienced race discrimination were more likely to report mental health problems.

MIND is currently running a campaign called Taking Care of Business where they are taking a collaborative approach with employers. The campaign was launched in May 2010 and aims to ensure that people who have experienced mental health problems are able to gain and retain fulfilling employment. MIND is producing a guide to well being at work and working with employers on guidance to deal with disclosure. It is also promoting the TUC's guidance on mental health at work.

The Race Relations Committee is concerned that the effect of public spending cuts, leading to the removal of services and safety net in the UK, could produce a similar effect to that in Greece, where the effect of the austerity measures in Greece has been a large increase in the rate of suicides.

The Race Relations Committee is aware that many employers have lots of paper policies on mental health issues but do not put these into practice. In the current climate people with health problems are being targeted for redundancy. Mental health problems are not recognised by employers even in relation to the DDA and occupational health practitioners are often not sympathetic and tend to support employers' views. In education black teachers tend to be seen as enforcers and given difficult classes without support. Culture is also a problem with the way that black people communicate, often being seen as aggressive rather than assertive.

The Race Relations Committee felt that any guidance for employers needs to be explicit about the links between race discrimination, cultural problems and mental health. Black communities already face high levels of stress because of racism in society and when experiencing problems at work they face management tactics that often put people under more stress. If they do not have mental health problems when they complain they do have by the time they have finished. It was felt that there are real problems about the role played by occupational health services, which are simply supporting employers

in dismissing people with health problems. There is a question as to whether occupational health should be better regulated.

The Race Relations Committee agreed to forward to MIND any specific case studies that they were aware of that were examples of the link between mental health and race. These would be used in the guidance that was being produced for employers. MIND agreed to take up the issue of workplaces and the lack of occupational health regulation, guidance and support in their employment work.

### 12. Let Them Work campaign

The TUC has continued to work with the Refugee Council, trade unions and other organisations to develop a campaign for the entitlement of asylum seekers to work.

The campaign objective is for the government to remove the bar denying asylum seekers the ability to legally work. The campaign decided, as part of a strategy of involving more MPs in the campaign, to produce a declaration which MPs are being asked to sign up to, in order to work towards building a critical mass of support in the House of Commons.

During the year a joint letter from the TUC and Refugee Council has been sent to MPs asking them to sign up to the declaration. To date 147 MPs have signed the declaration and efforts are being made to increase this number.

### 13. European Commission against Racism and Intolerance

The European Committee against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, discrimination on grounds of ethnic origin, citizenship, colour, religion and language, as well as xenophobia, anti-Semitism and intolerance, prepares reports on and issues recommendations to member States.

In February 2012 the ECRI issued consultation on three interim recommendations it had made, arising from its monitoring report on race discrimination in the UK in 2010. The recommendations covered the introduction of legal aid for representation on discrimination matters in employment tribunals, improved access to education and housing for Roma/Travellers and the continuation of efforts to address the under-representation of ethnic minorities in the police, and to monitor progress in recruitment, retention and career advancement. The TUC had made a submission to the original consultation for the UK monitoring report in 2010 and has been invited to comment on the interim recommendations.

While the TUC has never supported legal aid being provided for representation in employment tribunals it has never actively lobbied against, in recognition of



the fact that there are many areas of the labour market that are not covered by trade unions. In its response to ECRI the TUC has argued that the government's proposals to introduce fees for access to employment tribunals, along with government plans to increase the qualifying period from one to two years in order to claim unfair dismissal, would have an disproportionate impact on black workers and hinder access to justice.

The TUC has also highlighted in its response particular disappointment that the government, when implementing the specific duties in the Equality Act 2011, has chosen to remove the requirements on public authorities to:

- publish evidence of the analysis a public body undertook to establish whether its policies and practices had furthered the general duties in the Equality Act and remove the requirement to publish details of the information it considered when it undertook the analysis
- publish details of the engagement the public authority undertook with persons whom it considered to have an interest in furthering the aims set out meeting the general duties in the Equality Act 2010, and details of the engagement it undertook when developing its equality objectives.

The TUC's response argues that the approach the government has taken on the specific duties means that public bodies will no longer be held to account through greater transparency and challenge from the public, as it is claimed and believes that the government, as well as the public, has a responsibility for and a major role in ensuring that problems of racial inequality in the labour market are addressed.

## 14. Durban III

In 2001, the United Nations (UN) organized the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa. The conference, attended by more than 10,000 people, adopted by consensus the Durban Declaration and Programme of Action, which remains the most important framework to date for combatting racism and racial discrimination. The UN also organised a Durban Review Conference, which took place from in Geneva 20–24 April 2009. The aim of the conference was to evaluate the implementation of the Final Declaration and Action Programme adopted in Durban.

On 22 September 2011 the United Nations held a special one day high level meeting to commemorate the Durban Declaration and Programme of Action that were adopted by consensus at the 2001 World Conference Against Racism, Xenophobia and Related Intolerances. The meeting was also planned to coincide with the International Year for People of African Descent and was seen by the UN as a unique opportunity for members states to redouble efforts to promote the fight against racism, xenophobia and related intolerances that affect African descendants in all parts of the globe.

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The commemoration took the form of a morning plenary session, which was addressed by the UN General Secretary Ban Ki-moon; the UN High Commissioner for Human Rights, Nis Navi Pillay; and the President of South Africa, Jacob Zuma. This was followed by statements from each of the regional groups and a statement by non-governmental representative Ms Sarah White (United States), from the Mississippi Workers' Centre for Human Rights. This was followed in the afternoon by two roundtables organised to discuss issues relating to victims of racism, racial discrimination, xenophobia and related intolerance, recognition, justice and development. The International Trade Union Confederation was one of the few NGOs that participated in the commemoration and was able to make a statement in Roundtable 2.

Although the preparatory process was short the commemoration experienced similar problems to the Durban recall Conference that took place in Geneva in 2008, with a number of countries led by Canada and Israel, declaring, almost immediately after 24 December 2010 when the UN passed a resolution, that they would boycott the meeting on the grounds that the UN Durban conference and process was anti-Semitic and intolerant.

The UK government gave no indication of what position they were taking on the conference despite a number of written questions being tabled in the House of Commons until a statement was issued on 15 September 2011 by the Foreign Secretary William Hague announcing that the UK would be not be attending the event. David Cameron followed this up by stating that the UK “will play no part in this conference” because the Durban process had in the past seen “open displays” of “deplorable anti-Semitism,” adding that it would be “wrong” to engage in such events.”

The TUC wrote to the Foreign Secretary, expressing disappointment that the government boycotted the commemoration and reminding them that the UK signed up to the original Durban Declaration and Programme of Action and also the statement at the Durban Review Conference. The letter pointed out that the failure to participate in the conference risked undermining the United Nations' efforts to tackle racism and xenophobia at an international level and that there were a number of issues relating to employment that needed to be dealt with if constructive action against racism in the labour market was progressed. The Runnymede Trust and a number of other organisations also expressed their disappointment at the government's decision not to take part. A total of 17 countries boycotted the event, the others being Czech Republic, Italy, Netherlands, Australia, Austria, Germany, Bulgaria, France, New Zealand and Poland.

The boycott of the commemoration by the UK government represents a retrograde step in its commitment to tackling issues of racism internationally and in the little that has been done to follow through on the Durban 2001 programme of Action. The persistence of western countries in labelling the UN

process as anti-Semitic has resulted in all the other important issues in the declaration and programme of action being ignored and the lack of action on dealing with them internationally also being ignored.

What was evident at the Durban recall conference was that the only western country that had taken action in accordance with the spirit of Durban by drawing up a national action plan against racism was Ireland.

Although the last government produced two race equality strategies, both represented a digest of current government policy and initiatives being taken by voluntary and anti-racist organisations. Unfortunately all three political parties in the UK currently take the attitude that there is not a major problem with race discrimination in the UK and that the legislative framework that exists means that they do not have to take specific action to combat race discrimination.

The TUC will continue to campaign for the government to honour its commitments to the Durban Declaration and programme and action by formulating a national action plan against racism. In the meantime the TUC continues to pursue issues of racism relating to the UK through giving evidence to and commenting on the UN Committee for the Elimination of Race Discrimination (CERD) UK reports.

## 15. Playfair 2012 Campaign

The Playfair 2012 campaign calls on the Olympic movement and sportswear industry to ensure that the rights of workers making their goods in global supply chains are respected, and in line with standards set out in ILO Conventions and the UN Declaration of Human Rights. The campaign is coordinated by the TUC and Label Behind the Label, and is supported by over 20 trade unions and campaigning organisations. [www.playfair2012.org](http://www.playfair2012.org)

The TUC, on behalf of Playfair 2012, recently signed a ground-breaking agreement with the organisers of London 2012 (LOCOG) committing LOCOG to take significant steps to protect workers' rights in its supply chains. This followed publication of the report *Toying with Workers Rights* (Play Fair, 2012) which documented exploitative working conditions in two factories producing Olympic mascots and London 2012 pin badges in China.

Conditions included poverty pay, sometimes below the legal minimum wage; excessive overtime – over the legal limit; child labour; unsafe conditions and no health and safety training; no unions and threats of dismissal if workers undertook any trade union activities; and coaching/bribing workers to lie to auditors.

LOCOG has now committed to:

- publish the names and locations of factories in China and the UK, covering 72 per cent of licensed products produced for London 2012, focussing on

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licensees with remaining production

- make information about employment rights – based on national laws and on LOCOG's ethical code – available in Chinese and English, and establish a Chinese language hotline so that workers can complain if their rights are violated
- provide training to some of the workers in Olympic supply chains to make them more aware about their rights
- work with Playfair 2012, the organisers of Rio 2016 and the International Olympic Committee to ensure that future Games benefit from the lessons learned.

The campaign has been calling on LOCOG to take these actions for some time. Now, the Games organisers have gone further than any other organiser in taking steps to protect workers' rights. Playfair 2012 will be liaising with unions in the UK about training in relevant factories, and working closely with LOCOG to ensure that they deliver on these commitments in the short time left before the Games.

Unions were urged to encourage members to keep involved in the campaign. Forthcoming activities and actions include:

- the launch of a new report into sportswear production in China, the Philippines and Sri Lanka (April 2012)
- the launch of a new action targeting the sportswear brands (April/May 2012)
- Playfair 2012 presence at union conferences
- local torch relay actions and stunts (May–July 2012): working with unions and regional TUCs to encourage local members to organise actions with positive messaging about respect for workers' rights to coincide with the relay passing through their areas. This action has been shared with union representatives on the Playfair 2012 steering group. Playfair 2012 will be publishing an online Activist Pack with ideas for action and how to get media coverage, in April 2012.

## 16. Committee attendance

<i>Name</i>	<i>05/07/11</i>	<i>13/10/11</i>	<i>25/01/12</i>	<i>08/03/12</i>
Pav Aktar	n/a	n/a	x	✓
Dotun Alade-Odumodu	✓	✓	✓	✓
Pauline Anderson	✓	✓	x	x
Indira Bhansali	✓	✓	✓	✓
Gargi Bhattacharyya	x	✓	x	x
Freddie Brown	✓	x	✓	✓
Lorna Campbell	✓	x	x	✓
Mark Clifford	✓	✓	✓	✓
Michelle Codrington-Rogers	✓	✓	✓	x
Collette Cork-Hurst	✓	✓	✓	✓
Mark Dickinson	x	x	x	x
Floyd Doyle	✓	✓	✓	✓
Sarah Guerra	✓	✓	✓	✓
Sharon Harding	x	x	x	✓
John Hannett	x	x	x	x
Billy Hayes	x	x	x	x
Zita Holbourne	✓	✓	✓	✓
Betty Joseph	✓	✓	x	✓
Leslie Manasseh	x	x	✓	✓

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Fern McCaffrey	n/a	✓	✓	✓
Gloria Mills	✓	✓	✓	✗
Michael Nicholas	✓	✗	✗	✗
Winston Phillips	✗	✗	✗	✓
Tim Poil	✗	✗	✗	✗
Eleanor Smith	✓	✗	✓	✓
John Smith	✗	✗	✗	✗
Mohammad Taj	✓	✗	✓	✓
Ian Taylor	✓	✗	✓	✗
Nazerin Wardrop	✓	✗	✓	✓
Maureen Williams	✓	✓	✓	✓

Code: ✓ = attendance ✗ = non attendance n/a = not applicable

Note: It is not possible to list all the reasons for absence but it should be noted that reasons given are work commitments, union business and sickness.





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