Key Findings

Black and minority ethnic (BME) prisoners, consulted by the Prison Reform Trust, described changes they would like to see in the systems prisons use to respond to racist incidents. In a 15 month project, supported by the Joseph Rowntree Charitable Trust, BME prisoners identified the following main areas for improvement:

- the need for an independent input into investigations
- procedures and rights should be clearly explained
- enhancing the role of prisoner race representatives, for example by providing a clear job description
- mediation should be made available

PRT also interviewed 71 BME prisoners. They suggested that, for many, racism occurs frequently in prison. Whether among prisoners, or between prisoners and staff, over a third said that racist incidents happen often or everyday. The interviews revealed six types of racist incident:

- blatant
- direct racial discrimination
- informal partiality
- either way incidents
- cultural or religious offence
- structural
Background

The nature of the problem

From July 2000, the Prison Service adopted the Macpherson definition of a racist incident, taken from the Stephen Lawrence Inquiry:

A racist incident is any incident which is perceived to be racist by the victim or any other person. (HMPS, 2007)

Anyone can report a racist incident. The race equality officer (REO) investigates claims by interviewing the parties. The REO decides whether there is sufficient evidence of racist discrimination to uphold the complaint. The test is the balance of probabilities.

BME prisoners are less likely than white prisoners to use the complaints process. Parallel Worlds, a review of race relations by the Inspectorate of Prisons, said that BME prisoners did not have confidence in the process.

The procedures for investigating racist incident reports were designed primarily to detect and punish blatant and malicious racist behaviour, not covert racism. Covert forms of racism cannot easily be proven, and this can leave the victims with feelings of frustration and injustice.

Parallel Worlds suggested that covert racism was widespread. The Inspectorate reported that Black male prisoners had described ...

being treated differently in the way they were spoken to, searched or ‘put behind their doors’; the length of time they waited for valued jobs or enhanced status; where they were seated in the visits room; and the way their visitors were treated. They described being told to come back later or to put in an application when they asked for things that they saw white prisoners receiving straight away. (HMIP, 2005: 13)

A Home Office report on racist incidents in prison referred to this kind of treatment as ‘informal partiality’ (Edgar and Martin, 2004). It arises in routine decisions, as in the following situation:

A prisoner’s door was unlocked so he could clean his cell. When he finished, he took his laundry to the orderly. The officer who unlocked him shouted at him to get back inside his cell. From his doorway, he saw five other prisoners out on the landing. They were not all cleaners, and they were just chatting. The prisoner reflected on his treatment by the officer. Why was he ordered to return to his cell when they were allowed to roam about? He later said, ‘It was as though they were invisible.’ When the officer came to lock him up he asked why he had ignored the others. He explained that to him, as a Black prisoner, it appeared to be racist. (Drawn from Edgar and Martin, 11/04)

The officer was exercising discretion. The prisoner perceived favouritism towards white prisoners. As the prisoner commented, it was as though they were invisible to the officer.

Informal partiality arises in fleeting person-to-person exchanges between an officer and a prisoner, which leave little hard evidence for an investigation to determine whether racism occurred.
Recognising covert racism often depends on interpretation. A prisoner can judge that one officer is trying to build rapport by making a joke, while another is using the cover of humour to belittle him or her. Personal experience may enable people from BME groups to be alert to nuances of racism, which most white people fail to discern. When a BME person sees racism, those from the majority, white group, who lack their life experience, may be tempted to dismiss their perspective. It is likely that both groups will recognise blatant racism, but subtle racism may lead to opposing perceptions, depending on previous experience.

The Zahid Mubarek inquiry reached a similar conclusion about the perspectives of the majority, white staff. Reflecting on the fact that Robert Stewart’s racist letters and tattoos were not seen by prison staff as causes for concern about the safety of Zahid Mubarek, Justice Keith wrote:

The failure to recognise racist abuse for what it is was the most obvious manifestation of an even more serious malaise – the lack of intuitive skills on the part of staff to see things against the background of their racial dimension. (The Honourable Mr Justice Keith, 2006, Vol 1: 421)

Prisons need to become pro-active in tackling subtle racism. One reason is that BME prisoners are far more likely to experience subtle racism – from other prisoners as well as staff – than blatant and malicious racism. The Prison Service Race Review 2008 reported that Black prisoners are more likely than white British prisoners to be on the basic regime, to be held in segregation units on the grounds of good order, and to have force used on them in restraint (REAG, 2008: 37-39).

A second reason is that subtly racist attitudes and values contribute to the institutional racism which the Prison Service is working to eradicate. The Race Review 2008 describes the negative influence that attitudes and assumptions can have on relations between white officers and BME prisoners. A white officer’s lack of confidence in interacting with a Black prisoner would be picked up by the prisoner, who, in turn, might avoid dealing with the officer. The officer would be suspicious of the prisoner’s remoteness, which could lead to the unfair (and often unwitting) use of discretion against the prisoner (Race Review: pages 41-42).

The Prison Service also needs to focus on subtle racism in the interests of good industrial relations. In 2000, the then Director General stated that any staff member found guilty of being racist would be sacked. Since then, the Prison Service has targeted hardcore racist officers, and it is a matter of pride that membership of any racist organisation is prohibited.

The tough stance on blatant racism is entirely justified but it is aimed at only a tiny number of staff who are led by racist values. The vast majority of officers, who are committed to equality, feel threatened by investigations into allegations of racism that treat them as possible racists. They are unlikely to cooperate voluntarily in an investigation into their conduct which treats them with distrust. Ironically, the Service’s strong stance against blatant racism has contributed to an environment in which subtle racism is ignored.

In practice, covert racism means that staff and managers are unaware of it; not that the minority ethnic prisoners who are subjected to subtle bias fail to see it. And therein lies an important lesson for the Prison Service to take on as it begins to develop solutions. To tackle subtle racism, the Prison Service must expand methods that can bring the prisoners’ perspective to light. Being open to the perceptions of BME prisoners will enable the Prison Service to recognise and address subtle racism.
A Fair Response:
Aim and methods

The purpose of the project was:

To consult black and minority ethnic prisoners to develop new ways of responding to racist incidents so that BME prisoners have more confidence in them.

Four prisons participated: a women’s prison, a local prison, a young offender institution and a prison for sentenced men. Prisoners from BME groups were interviewed to gather evidence about the specific problems with racism experienced in each prison. PRT then convened a working group in each prison. Prisoner race representatives (appointed to provide prisoners’ input on race equality policies and practices) were involved in all four prisons.

Racist incidents in prisons
The interviews gathered information about race relations, the response to complaints, and the person’s recent experience at that prison. If they had witnessed or experienced racism, they were asked to describe what happened. From their accounts of racist incidents, PRT found six basic categories:

• blatant and malicious racism
• direct racial discrimination
• informal partiality (or favouritism)
• either way incidents
• offence to culture or religion
• structural bias

TYPES OF RACIST INCIDENTS

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<tr>
<th>Blatant &amp; malicious</th>
<th>Direct racial discrimination</th>
<th>Informal Partiality</th>
<th>Either way</th>
<th>Different cultures</th>
<th>Structural</th>
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<td>Abuse of power</td>
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Blatant & malicious

- Abuse of power: Different outcomes based on race
- Language known to be racist: Misuse of discretion
- Physical abuse: Biased decision-making
- Harassment: Processes or acts of omission
- Isolation: Unconscious, different approach to BME prisoners
- Deliberate: Fleeting interactions

Direct racial discrimination

- Abuse of power: Different outcomes based on race
- Language known to be racist: Misuse of discretion
- Physical abuse: Biased decision-making
- Harassment: Processes or acts of omission
- Isolation: Unconscious, different approach to BME prisoners
- Deliberate: Fleeting interactions

Informal Partiality

- Abuse of power: Person-to-person
- Language known to be racist: Routine, normal functions
- Physical abuse: Perceived favouritism
- Harassment: Unconscious, different approach to BME prisoners
- Isolation: Fleeting interactions
- Deliberate: Unconscious, different approach to BME prisoners

Either way

- Abuse of power: Evidence for and against racial bias
- Language known to be racist: Missing or inconclusive information
- Physical abuse: Opposing, equally valid perspectives
- Harassment: Opposing, equally valid perspectives
- Isolation: Aggregate outcome differences which may reflect invalid use of race as criterion
- Deliberate: Result of a combination of decisions at different stages

Different cultures

- Abuse of power: Lack of knowledge about other cultures
- Language known to be racist: Missing or inconclusive information
- Physical abuse: Opposing, equally valid perspectives
- Harassment: Opposing, equally valid perspectives
- Isolation: Aggregate outcome differences which may reflect invalid use of race as criterion
- Deliberate: Result of a combination of decisions at different stages

Structural

- Abuse of power: Breakdowns in processes
- Language known to be racist: Result of a combination of decisions at different stages
- Physical abuse: Breakdowns in processes
- Harassment: Breakdowns in processes
- Isolation: Breakdowns in processes
- Deliberate: Breakdowns in processes
Prisoners' accounts of racist incidents

**Blatant**
Near enough every week I witness people using the *N* word amongst white and black prisoners. Used offensively between white prisoners and just in jokes by black prisoners.

**Discrimination**
A friend of mine was a Black person who applied for gym orderly. He waited a long time. Then they gave the job to someone who just come in. ... Gym orderlies are all white. It's like them jobs are too good.

**Informal partiality**
I went to queue up for medications. This officer says, 'Where's your ID?' I said, 'You know who I am, you took me to hospital yesterday.' She wouldn't let me past. At the same time, she let several white prisoners past. I perceived this to be racist. She was also hostile and belligerent.

**Either way**
There is a rule you're not allowed to eat outside your pad. Everyone does it though. When I did it an officer told me to get in my cell and then did nothing to the other white guys eating outside.

**Cultural**
A lot of Black males aren't aggressive but their attitude is different. An officer might say, 'Pull your trousers up.' A lot of officers don't understand culture very well. It's not racism as such. It's the way you are brought up.

**Structural**
[Commenting on a policy that foreign nationals are not allowed in open conditions] If that's not racist, then I do not know what is. What you're saying is because he's foreign national, he cannot be trusted.
Interviews:
responding to racist incidents

Forty-nine of the 71 interviewed said that they had experienced racism in the previous six months in the prison. Almost two-thirds of those prisoners said that they did not submit a complaint about it. The main reasons for not reporting it were:

- fearing repercussions
- doubting it would be confidential
- feeling that it would be futile
- the incident was not serious enough, or too difficult to prove
- doubting that the investigator could be impartial.

Only two said that they did not know how to submit a racist incident report.

The most common explanation was that reporting a racist incident would make them vulnerable to repercussions from staff.

*It’s difficult enough to be here and that would have singled me out. You can be targeted with stupid behaviour warnings and hassled by officers and meet a brick wall. You don’t get what you need. For example your mail comes later etc and you never know if it’s intentional or a mistake.*

About two-fifths of those who had not reported it said that they felt it would be useless. Others said that the incident was not serious enough to go through the process, or that they knew it would too hard to prove.

*I cannot prove it’s race. I can complain. I’ve got a case. But I can’t prove it’s race. Sometimes it can be a hindrance to say it is racial.*

Some prisoners felt that racist incidents could be prevented if officers communicated better in their work with prisoners:

*There has to be more interaction between prisoners and staff in order to foster relationships… You can change the forms as much as you want but without communication you don’t change anything.*

Interviewed prisoners also valued communication in response to racist incidents. Opportunities for talking it over and for the perpetrator to apologise were suggested:

*They should’ve brought both of us together to speak it out so we could’ve come to some sort of solution.*

The working groups

The working groups met four times. The first meeting focused on the effects of racism on people and the community. The aim was to understand the problems that prisons needed to remedy after a racist incident occurred. The second considered the evidence from the PRT interviews about the kinds of racism people were experiencing at each prison. The third session looked at how the prison responded to complaints. The fourth session gave the working group the opportunity to design a way of responding to racist incidents that they would trust.
Across the four prisons, this process developed 64 proposals. The main recommendations were:

- prisons should make use of independent input in investigations
- victims and witnesses must be informed of their rights in the process
- the role of race reps should be enhanced to support prisoners who experience racist incidents, and
- other, less formal responses should be tried, including mediation

All four working groups suggested that an independent organisation should visit the prison once a month. It should investigate serious, blatant incidents and those that involved violence. Some group members felt that an independent perspective was the only way to improve trust in the process.

Each prison is meant to have race reps on the race equality action team and to ensure that they are adequately trained. This role is still under development. The main proposals for enhancing the role of race reps were that prisons should:

i) develop a clear job description for race reps and encourage prisoners to make use of them
ii) establish a general consultative role for race reps, to give a voice to BME prisoners’ concerns
iii) give race reps formal status and free movement across the prison when they are needed
iv) make race reps the first point of call for prisoners who would prefer to speak to a prisoner
v) task race reps to work with the race equality officer
vi) enable race reps to guide complainants through the process

Many prisons have developed the race reps’ role by training them in Prison Service Order 2800 (on race equality). The working groups proposed that trained reps should available on request, after a complaint has been submitted, to provide knowledge about procedures, and to accompany the complainant right through the process, including follow-up support after a decision had been reached. Experiencing racism tends to make a victim feel isolated. This can be made worse by investigations that dismiss the prisoners’ perceptions as unfounded.

Prison is hard. You have lost your liberty, your family, your friends and then you get rejected by the system when RIRFs or appeals get dropped. With all the pressure you under, such rejection hits you hard.

Working groups called for prisons to do more to educate prisoners about the procedures; to explain fully the rights of complainants; and to ensure that all prisoners understand how complaints and racist incident reports are processed. They also highlighted the need to do more to ensure that prisoners who make a complaint are protected from repercussions.

Three working groups advocated mediation as a first response, prior to a formal investigation. Mediation is a powerful means of bringing diverse perceptions to light so that two (or more) parties can learn from each other’s point of view. It is ideal for working with subtle racism because both parties are able to explain their perspective. As mediation is a problem-solving approach, it can encourage both parties to discuss what they would like to happen to resolve the conflict.

Mediation is not a cheap option. However, while formal means of handling blatant racism have been expanded in prisons, mediation has been defined as an optional add-on. The Prison Service needs mediation in order to bring subtle racism to light. Half-hearted support for the idea of mediation will maintain the status quo, a preoccupation with blatant racism which allows that subtle racism to go unrecognised and unresolved.

Among the interviews and the working group discussions, people occasionally mentioned a need for serious consequences for those proven to have been racist. One young offender stated, “If he’s racist, he has got to be suspended. Right now, they have immunity to do whatever they want. There has to be a deterrent.”
Others explicitly mentioned restorative justice, a response which is focused on the harm done and what the person who caused offence could do to make amends. A young offender said simply, "the main thing people want is a sincere apology." The working groups believed that people who engage in racist behaviour should be educated about the effects of racism. One group decided that people proved to have been racist should have to sit in on meetings of the race reps, to learn how racism affects others. The intention was to encourage learning from experience.

**Solutions in context**

The *Fair Response* project generated a wide range of ideas, many of which prisons could apply without heavy costs. The different priorities among the working groups suggest that each prison should tailor its solutions to the particular interests of its prisoners. The *Fair Response* proposals are not a fixed toolkit, but ideas for each prison to consider in the light of its specific situation. They can be used to make changes that will increase the confidence of BME prisoners in the procedures for handling racist incidents. Implementing them can lead to enhanced communication and mutual understanding.

**References**


The work of the Prison Reform Trust is aimed at creating a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. www.prisonreformtrust.org.uk