

Race Discrimination in the Construction Industry Inquiry Report

Executive Summary



Equality and
Human Rights
Commission



Executive Summary

This Executive Summary sets out, in brief, the findings of the Equality and Human Rights Commission's (the Commission's) Inquiry into Race Discrimination in the Construction Industry (the Industry). The full Inquiry Report is also available as a separate publication.

The Commission launched its Inquiry on 30 January 2009 with the following Terms of Reference:

- To inquire into barriers to the entry of and retention of non-white ethnic minority workers¹ (which includes employees and self-employed contractors) in the Industry.
- To identify examples of good practice in encouraging ethnic diversity in the Industry and the benefits derived from such good practice by the firms and workers involved.
- To assess and analyse the differential impact of job losses in the Industry.
- To make such recommendations as are appropriate.

The Inquiry focuses solely on non-white ethnic minorities and does not look at the recruitment of white ethnic minority workers in the Industry or migrant workers from European Union accession countries.

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

Background to the Inquiry

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

¹ When we refer to 'workers in the Industry', we mean anyone working in the Industry, including in the trades, crafts and professions, and those in technical and administrative roles. 'Workers' are employees, self-employees and sub-contractors.

Race Discrimination in the Construction Industry Inquiry

Despite efforts made by ConstructionSkills and Industry partners, there are still significantly fewer non-white ethnic minority workers in the Industry compared to the workforce as a whole. The 2008 Construction Statistics Annual² compiled by the Department for Business, Industry and Regulatory Reform (BERR)³ shows that for the first quarter of 2008 only 3.3% of those employed or self-employed in the Industry were from non-white ethnic minorities, compared with 7.9% in the total active working population.

Methodology

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

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

Commissioned research

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

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

Evidence-gathering

- A Call for Evidence from various groups in or relating to the Industry.

- On the record evidence-gathering interviews with 63 witnesses from the Industry.
- Stakeholder meetings with key organisations in the Industry.

The Report consists of four parts:

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

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

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

Part Four: Next steps sets out the Report's conclusions and recommendations, including recommendations for Commission action.

² ONS: Construction Statistics Annual 2008, Table 12.7.

³ Now the Department for Business, Innovation and Skills (BIS).

Key findings

In our Inquiry Report we make a number of key findings in relation to the Industry.

These are set out below:

The key findings from **Part One** are:

- The breadth of roles, skills and bodies within the Industry and its fragmented nature make it difficult to gain a comprehensive picture, particularly in relation to its workforce.
- The casual and transitory nature of much employment in the Industry makes it difficult to accurately capture information about those who are working in the Industry.
- Although the representation of non-white ethnic minorities differs significantly in different parts of Britain and in different parts of the Industry, the overall picture is of consistent under-representation relative to local non-white ethnic minority working populations.
- There is a lack of understanding and limited effective use of diversity monitoring in the Industry. However, there are some projects which are using monitoring successfully.
- There is limited information about the effect of the recession on non-white ethnic minorities in the Industry. At this stage it does not seem to be adversely affecting non-white ethnic minority communities more than white communities.

The key findings from **Part Two** are:

- There are many and varied barriers to entering the Industry. Those that stand out most and were mentioned by a majority of witnesses are the image and perceptions of the Industry, and the lack of awareness among people in general and non-white ethnic minorities in particular, about the range of opportunities available. Our Inquiry found that although some members of non-white ethnic minority communities have some negative perceptions of the Industry there is no general lack of interest in the Industry if the level of awareness is raised, ie interest is prompted.
- There is a prevalence of word of mouth recruitment. This is a significant barrier to increasing the diversity of the workforce, which would benefit from more open recruitment practices.
- Some witnesses felt that training needs to be more relevant. There exist some skills gaps in areas where there are significant volumes of construction taking place.
- Many witnesses felt that careers guidance about the Industry is inadequate.
- There was a consistent view from witnesses that there are insufficient numbers of apprenticeships.
- Apprenticeships based on securing an employer from the start ('ready matching') are problematic for non-white ethnic minority candidates because such matching is often done by word of mouth, and they may also face difficulties completing programme-led apprenticeships because of a lack of established networks from which to secure work placements.

Race Discrimination in the Construction Industry Inquiry

- Significant barriers to retaining non-white ethnic minority people in the Industry include the lack of job or career progression and negative experiences at work.
- Overt racism is still present in some parts of the Industry, most commonly in the form of racist ‘banter’. Although the vast majority of witnesses felt that this has improved in recent years, there are still pockets where unlawful race discrimination exists. In some parts of the Industry racist ‘banter’ is an accepted part of the culture.

The key findings from **Part Three** are:

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

Part Four: What next?

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





A summary of our main conclusions and recommendations for key issues to be addressed is set out below:

Leadership

Conclusions

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

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

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

This fragmentation applies to policy responsibility for various aspects of construction within Government as well as to the Industry:⁴

Recommendations for key issues to be addressed

- There is a need to clearly identify and empower the body responsible for leading on setting Industry-recognised best practice standards on diversity.
- A key task for the responsible body will be to identify best practice and ensure that relevant guidance and toolkits are available to enable organisations of all sizes within the Industry to achieve that best practice.
- The work on best practice should build on existing work such as that done by Constructing Excellence in its Respect For People Diversity Toolkit.
- There is a need to increase Industry-wide understanding of the real-life business benefits of diversity for the Industry as a whole and for individual organisations. Work may be needed to be done on collating evidence of the tangible benefits, for example in terms of winning contracts with public bodies.
- The suggestion of the role of Chief Construction Officer is very welcome and the appointee will have a crucial role in contributing to leadership on Industry-wide issues.
- The Industry needs to consider how best to generate a pool of skilled workers for the Industry. Some witnesses suggested that public, and particularly local, authorities should have a greater role in creating a pool of skilled workers. Other witnesses suggested that there should be a more creative approach to skills development based on firms sharing investment in worker development.

⁴ Business and Enterprise Select Committee July 2008 report, *Construction Matters*.

Awareness and perceptions of the Industry

Conclusions

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

While we found some evidence that the Industry is not viewed as a prestigious one, the findings of our ICM survey indicated that non-white ethnic minority respondents to the survey did not view the Industry as any less attractive (indeed view it as slightly more attractive) than white respondents, despite not being as aware of the breadth of careers available within the Industry as white respondents.⁵

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

Recommendations for key issues to be addressed

- The Industry needs to take further co-ordinated, Industry-wide steps to raise awareness of the Industry and the breadth of careers within it. Industry bodies should work together to achieve this.
- Raising awareness needs to take place in schools and needs to raise both children's and adults' awareness of the Industry.

- Schemes like Construction Ambassadors are important in providing role models to potential entrants to the Industry. Construction Ambassadors should pay particular attention to ensuring that under-represented groups in the Industry are well-represented by Construction Ambassadors. There should also be a focus on targeting schools and communities with high levels of non-white ethnic minority populations.

Training and education

Conclusions

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

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

Recommendations for key issues to be addressed

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

⁵ Note that non-white ethnic minorities tend to view all business sectors more positively than white people.

- The quality of training should be kept under review to ensure it is meeting the diverse needs of those training to enter the Industry.

Apprenticeships and the transition from training to employment

Conclusions

There is a relatively high proportion of non-white ethnic minority students undertaking construction-related trade courses.⁶ However, this does not seem to have translated to increased numbers of non-white ethnic minorities working in the Industry.

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

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

Recommendations for key issues to be addressed

- Work needs to be done to establish whether more non-white ethnic minorities are undertaking ‘programme-led’ apprenticeships and then not being able to complete the apprenticeship because they are unable to find a placement. ConstructionSkills and other providers of apprenticeships need to take steps to act on this work.

- Apprenticeships should be used as a way of ensuring more non-white ethnic minority people enter the Industry. The creation of the National Apprenticeship Service should assist the Industry in achieving this.
- Government should consider compulsory requirements to provide a certain number of apprenticeships per £1million of public sector construction spend. We recommend between 1 and 2 apprentices for each £1million.

Recruitment and contracting practices

Conclusions

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

Recommendations for key issues to be addressed

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

Barriers to retention

Conclusions

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

⁶ 7% – figures provided by ConstructionSkills for 2008.

Race Discrimination in the Construction Industry Inquiry

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

Recommendations for key issues to be addressed

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

Unlawful race discrimination

Conclusions

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

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

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

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

Recommendations for key issues to be addressed

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

Monitoring

Conclusions

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

There is a lack of widespread understanding in the Industry of the importance and effective use of diversity monitoring. This has been highlighted by the recent report produced for the Construction Industry Council Diversity Panel by the University of the West of England.⁷

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

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

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

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

Information from Industry-wide monitoring of the workforce could provide further evidence to inform the development of the business case for diversity by identifying skills gaps and future skills shortfalls, building on work already being done by ConstructionSkills.⁸

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

Recommendations for key issues to be addressed

- There is a need to evaluate the accuracy of national statistics about the Industry to ensure they provide accurate information about those working in the Industry. This may in particular help identify whether there is a concentration of non-white ethnic minority workers in non-craft jobs on sites.

⁷ *Gathering and Reviewing Data on Diversity within the Construction Professions*, report for the CIC Diversity Panel by the University of West England, Bristol, Department for Architecture and Planning

⁸ ConstructionSkills – the organisation responsible for tackling the skills and productivity needs of the Industry – has identified that there will be a demand for skilled workers to join the Industry at an average rate of 37,000 per year between 2009 and 2013.

Race Discrimination in the Construction Industry Inquiry

- There is an urgent need to increase the understanding and practice of diversity monitoring in the Industry. Without this it will not be possible for the Industry to pinpoint problems and identify solutions. Some organisations, for example ConstructionSkills, are adopting an evidence-based approach to ensure its initiatives are more effective.
- To be useful, there is a need for consistency of approach to monitoring. An Industry-wide approach is necessary, developed from existing Industry good practice and taking into account good practice in the public sector, informed by the non-statutory guidance on monitoring produced by the Commission for Racial Equality.⁹
- There is a need for the Industry and those providing construction-related courses to work together to improve the tracking of progress of trainees and students as they move into the Industry. This would help to pinpoint where non-white ethnic minorities are lost to the Industry.

Influencing change in the Industry

Conclusions

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

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

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

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

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

Recommendations for key issues to be addressed

- The existing good work which has been done through use of procurement needs to be highlighted and further work done in order to identify what procurement practices and which contract terms relating to diversity are the most effective in bringing about change.

⁹ <http://83.137.212.42/sitearchive/cre/gdpract/monitoring.html>

- There is a need to ensure that firms who successfully tender for contracts engage in genuine change rather than minimal compliance with contract terms relating to diversity. Work being undertaken to develop diversity via procurement, for example within the Department for Business, Innovation and Skills in collaboration with the British Standards Institute to develop a Publicly Available Specification for Pre-Qualification Questionnaires, is welcome and needs to lead to establishment of best practice in procurement.
- As highlighted in relation to race discrimination above, the Commission needs to consider how it can ensure that those who do discriminate are penalised for doing so.
- As referred to under 'Leadership' above there needs to be more work done to make the business case for diversity more apparent.

Next steps

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

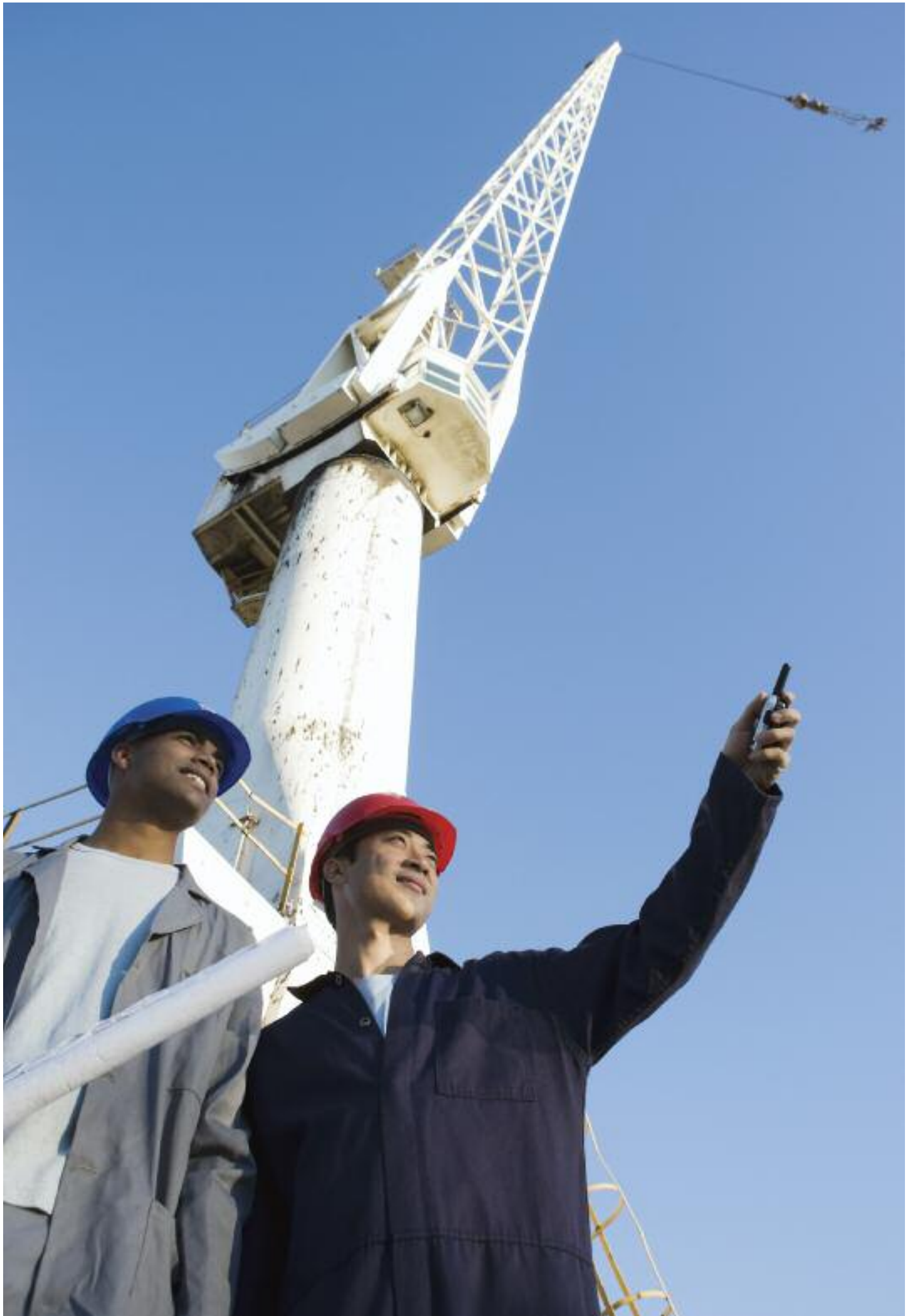
The next step for the Commission is to engage with Industry bodies and stakeholders, including relevant government departments, unions, education providers and careers advisers and key co-ordinating bodies like the National Apprenticeship Service and sector skills councils.

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

What makes change happen in the Industry?

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

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



Contacts

England

Arndale House
The Arndale Centre
Manchester M4 3AQ

Helpline:

Telephone
0845 604 6610

Textphone
0845 604 6620

Fax
0845 604 6630

Scotland

The Optima Building
58 Robertson Street
Glasgow G2 8DU

Helpline:

Telephone
0845 604 5510

Textphone
0845 604 5520

Fax
0845 604 5530

Wales

3rd Floor
3 Callaghan Square
Cardiff CF10 5BT

Helpline:

Telephone
0845 604 8810

Textphone
0845 604 8820

Fax
0845 604 8830

Helpline opening times:

Monday to Friday: 9am–5pm

This publication is also available in Welsh. If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs. All publications are also available to download and order in a variety of formats from our website:

www.equalityhumanrights.com



© Equality and Human Rights Commission
Published July 2009
ISBN 978 1 84206 189 3

Designed by Tattersall Hammarling & Silk
www.ths.co.uk

www.equalityhumanrights.com