



Closing the Data Gap: Equality, Human Rights, and the Challenge of BAME Representation in UK Policing

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Abstract

The recruitment and retention of individuals from Black and Minority Ethnic (BAME) communities within UK police forces is not only a persistent operational challenge, but also a critical human rights issue. This paper examines the failure of UK police forces to maintain accessible, comprehensive records on BAME recruitment and retention—a deficiency that undermines both domestic legal duties and international human rights obligations. By integrating empirical data obtained through Freedom of Information (FOI) requests with a doctrinal analysis of the Equality Act 2010 and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), this study argues that the ‘data gap’ constitutes a breach of the Public Sector Equality Duty (PSED) and imperils the pursuit of substantive equality in policing. This research contributes to the existing literature on institutional accountability and state data practices by advancing a framework that links data transparency with the broader imperatives of human rights protection.

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Introduction

Two and a half decades after the Macpherson Report,¹ the UK police forces² continue to face significant challenges in recruiting and retaining officers from the Black and Minority Ethnic communities (BAME).³ While much of the existing literature focuses on the cultural, and operational dimensions of institutional racism, there has been little attention paid to the legal dimensions of record-keeping, and transparency in BAME recruitment. This article argues that the lack of accessible recruitment and retention data constitutes not only a barrier to achieving representative policing, but also a breach of the Public Sector Equality Duty (PSED) under the Equality Act 2010, and the United Kingdom's international obligations under human rights law.

This study is situated at the intersection of UK equality law and international human rights obligations. The focus is specifically on the imperative to capture and monitor data on the recruitment and retention of BAME – as a disadvantaged and protected group –, in an easily accessible form for promoting equality of opportunity, and non-discrimination in policing. In other words, the duty to avoid what Tomlinson et al. described as a ‘data gap.’⁴ The study builds on established scholarship that emphasizes the role of disaggregated data in combating systemic discrimination.⁵ By comparing domestic legal duties with international standards—as articulated by instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and interpreted by the Committee on the Elimination of Racial Discrimination (CERD)—this article demonstrates that the failure to maintain accessible records is a critical omission that impedes effective policy reform and accountability. Without accessible, reliable data, police forces cannot be held accountable, and efforts to reform

¹ William Macpherson, W. (1999) *The Stephen Lawrence Inquiry – Report of an Inquiry by Sir William Macpherson of Cluny* (Cm 4262-I). London: HMSO. The inquiry found institutional racism as a major issue in policing in the United Kingdom.

² There are 43 territorial forces in England (39) and Wales (4) and a few other specialised ones like the British Transport Police. The 39 territorial police forces in England and the British Transport Police are the focus of this study. The police workforce (police family) in the United Kingdom comprises police officers, police staff, and police community support officers (PCSOs). See Home Office ‘Police workforce, England and Wales: 30 September 2023’ (second edition) Updated 4 January 2024 available at: <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-30-september-2023/police-workforce-england-and-wales-30-september-2023>. Published 24 January 2024. The first group, ‘Police Officers’ are the main public-facing and (naturally) largest part of the police workforce and the focus of this study.

³ Baroness Casey of Blackstock ‘Final Report—An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service’ (March 2023) available at: <https://www.met.police.uk/police-forces/metropolitan-police/areas/about-us/about-the-met/bcr/baroness-casey-review/>; National Police Chiefs’ Council ‘Police Race Action Plan: Improving Policing for Black People’ (2022) available at: <https://www.npcc.police.uk/our-work/police-race-action-plan/>

⁴ Joe Tomlinson, Jed Meers and Cassandra Somers-Joce ‘Judicial Review of Public Data Gaps’ (2023) 28 (2) *Judicial Review* 69, 69.

⁵ Sandra Fredman *Discrimination Law*, (3rd Edition Oxford University Press Oxford 2022); David B. Oppenheimer ‘The Disappearance of Voluntary Affirmative Action from the U.S. Workplace’ (2016) 24 (1) *Journal of Poverty and Social Justice* 37.

institutional practices will continue to fall short. This is important in the context of a worldwide crisis in policing recruitment and retention of staff.⁶

The need for comprehensive, disaggregated data in addressing structural discrimination is a recurring theme in both human rights and equality law and scholarship. The ICERD,⁷ for example, requires states not only to refrain from overt discrimination but also to engage in proactive measures—such as systematic data collection—in order to identify and remedy inequalities. In this context, General Recommendation No. 31 issued by the CERD emphasizes the importance of ensuring representative law enforcement as a means of reducing racial discrimination. Similarly, within the UK legal framework, the Public Sector Equality Duty (PSED) enshrined in the Equality Act 2010 imposes a positive duty on public bodies to monitor and address inequality. Public authorities are required to mainstream equality in their ‘day-to-day work of policy-making, service delivery, employment practice and other functions.’⁸ This article contributes to this debate by employing Freedom of Information requests to empirically demonstrate how the failure to capture recruitment data on BAME individuals not only contradicts these legal duties, but also obstructs the development of informed policies aimed at promoting equality in policing.

While much of the existing literature focuses on the cultural and operational dimensions of institutional racism, there has been little attention paid to the legal dimensions of record-keeping and transparency in BAME recruitment. This article argues that the lack of accessible recruitment and retention data constitutes not only a barrier to achieving representative policing but also a breach of the Public

⁶ Jacqueline M. Drew, Elise Sargeant, and Sherri Martin ‘Why Do Police Consider Leaving the Profession?: The Interplay between Job Demand Stress, Burnout, Psychological Distress, and Commitment’ (2024) 18 *Policing: A Journal of Policy and Practice*; Jeremy M. Wilson and Toby Miles-Johnson ‘The Police Staffing Crisis: Evidence-Based Approaches for Building, Balancing, and Optimizing Effective Workforces’ (2024) 18 *Policing: A Journal of Policy and Practice*; paae044 <https://doi.org/10.1093/police/paae044> Advance access publication 20 June 2024; Ann Marie Ryan, Deepshikha Chatterjee, Kurt von Seekamm Jr, Joie Magalona, Juli Liebler, and Jo M. Alanis ‘Leaving so Soon? An Analysis of Withdrawal Patterns from Academy Training’ (2024) 18 *Policing: A Journal of Policy and Practice*, 1–11, <https://doi.org/10.1093/police/paae018> Advance access publication 17 February 2024; Sarath Noni, Kim Hester, Karen Mc Daniel, and Melodie Philhours ‘Turnover Intentions of Police Officers: Influence of Burnout, Supervisor Support, and Job Satisfaction’ (2024) 18 *Policing: A Journal of Policy and Practice* paad086, <https://doi.org/10.1093/police/paad086>; Rachel Rief, Samantha Clinkinbeard, Lexi Goodjohn, and Trisha Rhodes, ‘Ask the Women in Blue: Female Officers’ Thoughts on the Recruitment and Retention of Women in Policing’ (2024) 18 *Policing: A Journal of Policy and Practice*, paad102, <https://doi.org/10.1093/police/paad102>; Sarah Charman and Jemma Tyson ‘In the “Too Difficult” Box? Organisational Inflexibility as a Driver of Voluntary Resignations of Police Officers in England and Wales’ (2024) 18 *Policing: A Journal of Policy and Practice* 1–9, <https://academic.oup.com/policing/article/doi/10.1093/police/paad104/7612097>

⁷ Adopted by the General Assembly in Resolution 2106 (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969. The UK was one of the very first countries to sign it soon after it was made and ratify it in 1966 and 1969, respectively.

⁸ Simonetta Manfredi, Lucy Vickers and Kate Clayton-Hathway, ‘The Public Sector Equality Duty: Enforcing Equality Rights Through Second-Generation Regulation’ (2018) 47(3) *Industrial Law Journal* 365, 367.

Sector Equality Duty (PSED) under the Equality Act 2010, and the United Kingdom's international obligations under human rights law.

By virtue of Sect. 150 (1), and Schedule 19 of the Equality Act 2010, the police forces in England are public authorities as they are specified in Part 1 of the legislation. The UK Equality Act 2010 mandates all the police forces in England, like other public authorities, to have due regard to, and comply with the Public Sector Equality Duty (PSED) in the performance of its functions. On the international front, the United Kingdom is a leading party to key international human rights instruments, and particularly the ICERD. The ICERD guarantees equality, and prohibits discrimination based on race, and ethnicity just like the Equality Act 2010.

There is an extensive body of work on the challenges and deficits of policing in the UK, including racism with sparse focus on recruitment and retention of Black and ethnic minorities.⁹ There is existing police literature critiquing police data capture in general. Others have directed attention to why police data is necessary for police reform, particularly with reference to the exercise of police powers in relation to BAME people (either as police officers or policed communities). Bowling and Phillips found that the statistical evidence demonstrates Black people in England and Wales are disproportionately stopped and searched compared to the general population. The available data supported the incidence of unlawful discrimination in the use of police powers against that segment of the population, with concomitant damage to police-community relations.¹⁰ Drawing on empirical research, Parmar examined the implications of the intersections of criminalisation, race and gender with the increasing involvement of the police in migration control in the UK.¹¹ The works of these scholars and others like Delsol, Shiner and Samota¹² demonstrate the need for transparent police data to reform disproportionate practices impacting BAME communities.

However, there has been no focus on the implications of deficits in securing, and monitoring figures on BAME recruitment and retention as part of the PSED under the Equality Act 2010. The PSED imposed by Sect. 149 of the Equality Act 2010 is particularly

⁹ Ian Waters, Nick Hardy, Domonique Delgado, and Simone Dahlmann 'Ethnic Minorities and the Challenge of Police Recruitment' (2007) 80 (3) *The Police Journal* 191–216; Sumit Kumar, Lawrence W. Sherman, and Heather Strang 'The Fall and Rise of Racial Inequality in London Homicides: A Challenge for Policing by Consent' (2022) 6 *Cambridge Journal of Evidence-Based Policing* 202–225; Sarah Charman and Jemma Tyson 'In the "Too Difficult" Box?' Organisational Inflexibility as a Driver of Voluntary Resignations of Police Officers in England and Wales' (2024) 18 *Policing: A Journal of Policy and Practice*.

<https://academic.oup.com/policing/article/doi/10.1093/police/paad104/7612097>. For a United States study see Ashleigh N Wojslawowicz, Jeffrey S. Payne, Anthony Gibson, W Terry Cherry 'I really felt wanted': Police Recruitment Strategies within a Competitive Labour Market' *Policing: A Journal of Policy and Practice*, Volume 18, 2024, paae003, <https://doi.org/10.1093/police/paae003>

¹⁰ Ben Bowling and Coretta Phillips 'Disproportionate and Discriminatory: Reviewing the Evidence on Police Stop and Search' (2007) 70(6) *Modern Law Review* 936–961.

¹¹ Alpa Parmar 'Policing Belonging: Race and Nation in the UK' in Mary Bosworth, Alpa Parmar, Yolanda Vázquez (eds.) *Alpa Parmar Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging* (Oxford University Press, Oxford 2018) 108–124.

¹² Michael Shiner Rebekah Delsol and Samota 'Caught in a Vicious Cycle: Where are we with Stop and Search?' (2024) 95(3) *Political Quarterly* 464–473.

germane to the investigation of the record-keeping practice of the Police (and any public sector body for that matter) with reference to recruitment, and retention of BAME. This is because the PSED was first introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976.¹³ Indeed, as the Court of Appeal (of England and Wales) pointed out in *R (Bridges) v Chief Constable of South Wales Police (Bridges)*,¹⁴ the PSED is particularly relevant in discussions of race and equality in UK policing as it constitutes the background to the creation of the duty, and its further expansion to other characteristics now embodied in Sect. 149 of the Equality Act 2010.¹⁵

Furthermore, there has also been no focus on the implications of the deficit on the international human rights obligations of the UK regarding equality and non-discrimination. These are significant gaps in the research on institutional racism and under-representation of BAME in UK policing, hence the significance of this research both in terms of its focus and methodology. With a specific focus on England, the study critically evaluates the data from government accredited statistics, and Freedom of Information requests (FoIs) against the legal standards set out in the domestic law, and international human rights instruments on equality and non-discrimination to interrogate the issue.

This article makes two principal contributions. First, it addresses a research gap by shifting the focus from qualitative analyses of racial disparities in policing to a quantitative assessment of record-keeping practices, thereby filling a critical void in both legal and policing scholarship. Second, it situates the UK's challenges within broader international debates on equality and accountability, arguing that effective data collection is indispensable for both domestic compliance, and international human rights commitments. The urgency of this research is underscored by the persistent underrepresentation of BAME individuals in policing.¹⁶ A recent review found that 'Black, Asian, and ethnic minority groups are substantially underrepresented in all police forces across the country.'¹⁷ With specific reference to London,

¹³ Aileen McColgan 'Litigating the Public Sector Equality Duty: The Story So Far' (2015) 35:3 *Oxford J Legal Stud* 453, 453; Karen Monaghan *on Equality Law* (2nd Ed. 2013 Oxford University Press) 16:6.

¹⁴ [2020] EWCA Civ 1058; [2020] 1 WLR 5037.

¹⁵ *Ibid.* paragraph 177.

¹⁶ James Pickles 'Diversity in the Criminal Justice System,' in Ed Johnston (ed) *Challenges in Criminal Justice*. (Routledge, Oxon 2023) 121–140, 131; William Shankley and Patrick Williams 'Minority Ethnic Groups, Policing and the Criminal Justice System in Britain' in Bridget Byrne, Claire Alexander, Omar Khan,

James Nazroo and William Shankley (eds) *Ethnicity, Race, and Inequality in the UK: State of the Nation* (Policy Press, Bristol 2020) 51–71, at 54; Ian Waters; Nick Hardy; Domonique Delgado; Simone Dahlmann, 'Ethnic Minorities and the Challenge of Police Recruitment' (2007) 80 (3) *Police Journal* 191–216; Ben Bowling and Coretta Phillips 'Policing Ethnic Minority Communities' in Tim Newburn (ed.) *Handbook of Policing* (Willan Publishing, Devon, 2003) p.14 available at: [https://eprints.lse.ac.uk/9576/1/Policing_ethnic_minority_communities_\(LSERO\).pdf](https://eprints.lse.ac.uk/9576/1/Policing_ethnic_minority_communities_(LSERO).pdf),

pp. 528–555 (accessed 30 July 2025); Elish Cashmore, 'The Experiences of Ethnic Minority Police Officers in Britain: Under-Recruitment and Racial Profiling in a Performance Culture' (2001) 24 (4) *Ethnic and Racial Studies* 642–659 <https://doi.org/10.1080/01419870120049824>.

¹⁷ Baroness Casey of Blackstock *Final Report: An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service* (March 2023) 286 available at: <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

it further noted that ‘At current recruitment rates it will take at least another 30 years to come anywhere even close to reflecting London’s ethnic diversity.’¹⁸ The situation stands in stark contrast to the UK’s domestic and international legal obligations on equality.

The next section sets out a brief background to the study and is followed by discussion of the methodology. This is followed by the analyses of the domestic and international obligations of the police to maintain accessible data on recruitment and retention of people from BAME communities in the UK in light of domestic law, and international human rights law on equality and non-discrimination. The focus then shifts to the presentation and analyses of the data from the Freedom of Information requests to the 39 territorial police forces in England and the British Transport Police. The article concludes that there is a data gap which is a breach of domestic and international law on equality, and non-discrimination. There is a legal and social imperative to address the data gap to fulfil the UK government’s legal obligations on equality, and advance the objective of making the police a ‘force for all.’¹⁹ The article recommends the filling of the data gap as one of the cardinal measures for achieving that objective.

Context

Since the 1980s—prompted by Lord Scarman’s Report²⁰ the UK police forces have made various efforts to recruit officers from the BAME communities. The available research highlights progress has been made but persistent challenges remain in achieving a more representative police force. There have been year-on-year increases in the number of BAME police officers, but as the Home Office admits, the proportion of BAME police officers ‘remains considerably lower’ than the 18.3% of the population in England and Wales who identified as BAME in the latest UK national census²¹ conducted in 2021 Census.²² Notwithstanding numerous recruitment initiatives, the low representation of BAME police officers persists across the 39 constabularies of England as well as the British Transport Police. The situation remains similar across the UK.

¹⁸ Ibid. at 289.

¹⁹ The Prime Minister, on 5 September 2019, announced the Government’s commitment to recruit an additional 20,000 police officers in England and Wales by 31 March 2023, see Gov.Uk ‘[National campaign to recruit 20,000 police officers launches today](https://www.gov.uk/government/news/national-campaign-to-recruit-20000-police-officers-launches-today)—GOV.UK (www.gov.uk).

²⁰ The Scarman Report, commissioned by the UK Government after the 1981 Brixton riots. On 14 April 1981, two days after the riots ended, then Home Secretary, William Whitelaw appointed Lord Scarman to lead the inquiry which investigated the causes of, and proposed solutions to prevent similar unrest. The report was published on 25 November 1981.

²¹ Home Office ‘Accredited official statistics—Police workforce, England and Wales: 31 March 2024’ Updated 24 July 2024 available at: [Police workforce, England and Wales: 31 March 2024](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2024)—GOV.UK (www.gov.uk). In terms of specifics, Black officers made up 1.3% of officers, Asian officers 3.8%, mixed officers 2.6%, and those from another ethnic group made up 0.7%.

²² For the Population data from the 2021, see Census Office for National Statistics ‘2021 Census’ [Ethnic group, England and Wales](https://www.ons.gov.uk/peoplepopulationandcommunity/ethnicity/population)—Office for National Statistics ([ons.gov.uk](https://www.ons.gov.uk)).

The UK government's accredited official statistics of the police work force in England and Wales disclose that there are 147,746 full-time equivalent (FTE) police officers in England and Wales as of 31 March 2024.²³ This is 'the highest number of police officers since comparable records began (in the year ending March 2003), and even higher than 'the previous peak of 147,434 FTE police officers in March 2023.'²⁴ Interestingly, the previous peak work force figures of 2023 had referenced the fact that the figures include 20,000 more officers recruited in the government's Uplift Programme²⁵ to increase the number of police officers in England and Wales.²⁶ While the Uplift Programme was ostensibly to make the police a 'force for all',²⁷ as of 31 March 2024, 91.6% of the workforce were white officers and 12,133 FTE officers were BAME, making up 8.4%.²⁸ Thus, the Uplift Programme did not contribute to a substantial increase in the number of BAME police officers.

While under-representation of BAME in public institutions has attracted broad research attention,²⁹ there has had been little or no attention paid to the legal dimensions of record-keeping regarding under-representation of BAME in UK policing. Nonetheless, it is germane to mention the work of Tomlinson et al. in this regard. Tomlinson et al. have examined current legal authorities in public law and equality law in the UK on 'the collection of systemic information' by public bodies, and the implications from a judicial review perspective.³⁰ They define the data gap as 'the failure of public bodies to collect valuable data', noting that it is a 'major problem of modern government.'³¹ However, their focus was a broad consideration of data gaps. Specifically, the need for accessible records on the recruitment and retention of individuals from BAME backgrounds in the police force remains neglected in discourses of BAME under-representation in policing in the UK. This article focuses on the need to address that gap. It argues that these records are foundational

²³ Home Office 'Accredited official statistics—Police workforce, England and Wales: 31 March 2024' Updated 24 July 2024 available at: [Police workforce, England and Wales: 31 March 2024—GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2024).

²⁴ Home Office 'Accredited official statistics—Police workforce, England and Wales: 31 March 2024' Updated 24 July 2024 available at: [Police workforce, England and Wales: 31 March 2024—GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2024).

²⁵ The Prime Minister, on 5 September 2019, announced the Government's commitment to recruit an additional 20,000 police officers in England and Wales by 31 March 2023, see Gov.UK 'National campaign to recruit 20,000 police officers launches today—GOV.UK (www.gov.uk).

²⁶ Home Office 'Accredited official statistics—Police workforce, England and Wales: 1 March 2023' (second edition) Updated 28 March 2024 available at: <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2023>.

²⁷ Gov.UK Supra, note 25 above.

²⁸ Home Office 'Accredited official statistics—Police workforce, England and Wales: 31 March 2024' Updated 24 July 2024 available at: [Police workforce, England and Wales: 31 March 2024—GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2024). In terms of specifics, Black officers made up 1.3% of officers, Asian officers 3.8%, mixed officers 2.6%, and those from another ethnic group made up 0.7%.

²⁹ See for instance Heidi Safia Mirza and Ross Warwick 'Race and Ethnic Inequalities' (2024) 3 *Oxford Open Economics*, i365–i452.

³⁰ Joe Tomlinson, Jed Meers and Cassandra Somers-Joce 'Judicial Review of Public Data Gaps' (2023) 28 (2) *Judicial Review* 69.

³¹ Ibid at 69.

to addressing the underrepresentation of BAME in the police under national legislation, and international obligations of the United Kingdom on equality.

It is a fundamental premise of this study that recruitment, and retention of its staff is one of the functions of the police force. There is judicial definition of what constitutes the ‘functions’ of a public authority. The House of Lords per Lord Templeman in *Hazell v Hammersmith and Fulham London Borough Council*³² held that ‘the word “functions” embraces all the duties and powers of a local authority; the sum of the activities Parliament has entrusted to it. Those activities are its functions.’³³ While this definition was with reference to a local authority and predated the Equality Act 2010 and the Public Sector Equality Act that are focal reference points of part of the analysis in this study, the definition is applicable to other public authorities. Notably, the Court of Appeal approved this approach in *R (Jewish Rights Watch) v Leicester City Council*³⁴ in litigation that concerned PSED.³⁵

Methodology

This study adopts a socio-legal approach that combines doctrinal legal analysis with empirical data. Empirical data obtained through Freedom of Information (FoI) requests and government statistics about the availability and accessibility of data on the retention and recruitment of BAME police officers are subjected to legal doctrinal analysis on equality law. FoIs were sent to all 39 territorial police forces in England and the British Transport Police, with data requests initially covering a 10-year period and later refined to a 5-year period following cost-limit objections. The responses—or lack thereof—are evaluated against the statutory obligations set out in the Equality Act 2010 and the UK’s commitments under international human rights instruments. This methodological integration not only broadens the scope of legal analysis, but also provides concrete evidence of how data gaps undermine the effective discharge of the PSED.

While FoIs has been used for research in the UK context, it is more commonly used by social advocacy organisations and journalists.³⁶ Nonetheless, as Whiting et al. have pointed out, FoIs are valuable for extensive coverage of subject organisations, and their ability to provide useful data set within a relatively short period.³⁷ The initial FoIs were sent to 19 Police Forces, and they contained 5 requests (see Table 1).

³² [1992] 2 AC 1,

³³ Ibid paragraph 29F.

³⁴ [2016] EWHC 1512 (Admin).

³⁵ (2018) EWCA Civ 1551.

³⁶ Andrew Whiting, Ben Campbell, Keith Spiller, and Imran Awan ‘The Prevent Duty in UK Higher Education: Insights from Freedom of Information Requests’ (2021) 23 (3) *The British Journal of Politics and International Relations* 513–532, 516; Julia Trautendorfer, Lisa Hohensin and Dennis Hilgers ‘From de jure to de facto transparency: Analyzing the compliance gap in light of freedom of information laws’ (2025) 19 *Regulation & Governance* 253–283.

³⁷ The statutory return period is twenty working days howbeit with permitted limited exceptions to the prescribed period. There is also the additional possible benefit of flexibility in the process where the data-holder can suggest how to amend the requests to achieve a positive outcome.

Table 1 The freedom of information request questions

#	Questions
1	The various routes for the employment of police officers, including apprenticeships and any other identified pathways for the past 10 (or 5) years (if possible, in tabulated format)
2	The number of Black, Asian, and Minority Ethnic applications received for the past 10 (or 5) years (if possible, in tabulated format)
3	The number of Black, Asian, and Minority Ethnic applicants who were invited for interviews for the past 10 (or 5) years (if possible, in tabulated format)
4	The number of Black, Asian, and Minority Ethnic applicants who were ultimately employed for the past 10 (or 5) years (if possible, in tabulated format)
5	The number of Black, Asian, and Minority Ethnic individuals who are still currently employed as police officers

There were prompt responses from 4 of the 7 largest Police Forces in England (Metropolitan Police Service, Greater Manchester Police, West Midlands Police, West Yorkshire Police, Thames Valley Police, Merseyside Police, and Kent Police) refusing the Freedom of Information application for falling within the exemption in Sect. 12 of the Freedom of Information Act, 2000 (FoIA). Section 12 of the FoIA provides an exemption from a public authority’s obligation to comply with a request for information where the public authority estimates that the cost of compliance exceeds the ‘appropriate level’. These Police Forces variously stated that the estimated cost of providing the information sought (especially but not limited to requests 1–3) is above the appropriate level they are legally required to undertake namely £450 (four hundred- and fifty-pounds sterling) which they calculated to equate to a total of 18 h of work. Taking a cue from this, I amended the FoI application to cover 5 years rather than 10, for each of the first 4 requests. The amended application was then submitted to these four Police Forces who had rejected the initial application, and to the other 21 Police Forces that had not been contacted initially, thus covering the 39 Police Forces in England and the British Transport Police.³⁸

The outcome of the FoIs is critically evaluated using the doctrinal legal research method. The doctrinal legal method also referred to as the ‘black-letter’ approach, is primarily concerned with positive law, and is used by lawyers, legal scholars and jurists to determine, apply and interpret legal provisions.³⁹ Doctrinal legal research is used to examine the PSED as provided in the Equality Act 2024, the jurisprudence developed by the courts in the case law and, the guidance provided by the Equality and Human Rights Commission (EHRC). The EHRC is

³⁸ The British Transport Police’s services cover all the railways and rail-type systems (trams, underground, light rail, etc.) of England, Wales, and Scotland.

³⁹ See Terry C. Hutchinson and Nigel Duncan ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17 (1) *Deakin Law Review* 83–119; William Hamilton Byrne and Henrik Palmer Olsen, ‘Doctrinal Legal Science: A Science of Its Own?’ (2024) (2024) 37 (2) *Canadian Journal of Law & Jurisprudence* 343–367.

the independent statutory body in with the responsibility to encourage equality and diversity, eliminate unlawful discrimination in Britain. Furthermore, this legal research method is also applied to the equality obligation and non-discrimination obligations of the United Kingdom under international human rights law as set out in the ICERD and the elucidation of those obligations by the CERD, the body of independent experts that monitors the implementation of the ICERD by States Parties.⁴⁰

Equality Act 2010 and the Public Sector Equality Duty

In *R (Elias) v Secretary of State for Defence (Elias)*,⁴¹ Lady Justice Arden stated that ‘One of the great social challenges of the day is to ensure equality for all persons in accordance with the law.’⁴² Following its promulgation, the Equality Act 2010 became the primary legislation for equality and non-discrimination in the United Kingdom. Among others, the Equality Act 2010 reforms and harmonises equality laws, as well as being a restatement of most of the existing laws on discrimination and harassment arising from certain protected personal characteristics.⁴³ These 9 characteristics are set out in Sect. 4 of the Equality Act 2010, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Also, the Equality Act 2010 requires certain functions be conducted ‘with due regard’ to the need to eliminate discrimination and other prohibited conduct. Furthermore, the Equality Act 2010 seeks to increase equality of opportunity with reference to the protected characteristics. The PSED imposed on public authorities by Sect. 149 of the Equality Act 2010 carries forward these objectives.⁴⁴ The material parts of Sect. 149 provide that

(1) A public authority must, in the exercise of its functions, have due regard to the need to

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

⁴⁰ Office of the High Commissioner for Human Rights Committee on the Elimination of Racial Discrimination | OHCHR.

⁴¹ [2006] EWCA Civ 1293.

⁴² Ibid. at paragraph 263.

⁴³ Some of the most important legislations are the Equal Pay Act 1970; the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; the Employment Equality (Religion or Belief) Regulations 2003; the Employment Equality (Sexual Orientation) Regulations 2003; the Employment Equality (Age) Regulations 2006; the Equality Act 2006, Part 2; the Equality Act (Sexual Orientation) Regulations 2007. See Doug Pyper ‘The Public Sector Equality Duty and Equality Impact Assessments’ (House of Commons Library Standard Note SN/BT/6591 2013) available at: <https://www.equalityours.org.uk/wp-content/uploads/2013/09/sn06591.pdf> (accessed 16 July 2024).

⁴⁴ Except for marriage and civil partnership, see Sect. 149 (7).

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (7) The relevant protected characteristics are -... race...

As stated above, ‘race’ is a protected characteristic and is defined by Sect. 9(1) of the Equality Act as including colour, nationality, and ethnic or national origins. Hence, ethnicity, is a protected characteristic. The Police Forces in the UK are part of the public authorities. The basic framework on non-discrimination in the Equality Act 2010 came into effect on 1 October 2010. The provisions of Sect. 149 on the PSED came into force on 5 April 2011.⁴⁵ The PSED imposes ‘positive equality’ duties on all public sector bodies and private organisations performing a public duty.⁴⁶ Positive equality duties ‘encourage more proactive and preventative approaches to achieving equality, shifting the onus from individuals to organisations to detect and address unlawful discrimination.’⁴⁷ They have the potential to integrate and mainstream equality into the functions of organisations.⁴⁸ This accords with the judicial view of the PSED as affirmed by the Court of Appeal in *Elias*. Lady Justice Arden stated that the PSED ‘must be seen as an integral and important part of the mechanisms for ensuring the fulfilment of the aims of anti-discrimination legislation.’⁴⁹ Furthermore, while the established judicial view is that the PSED is focused on process of ensuring equality rather than outcomes, it is a duty that must ‘be exercised in substance with rigour.’⁵⁰

Moreover, the significance of the PSED lies in the fact that it is part of public law, which is often concerned with process rather than outcomes. As the Court of Appeal stated in *Bridges*, public law’s concern with process is important because ‘good processes are more likely to lead to better informed, and therefore better, decisions’

⁴⁵ The UK government decided not to take forward the Equality Act 2010 provisions on ‘the public sector duty regarding socio-economic inequalities and combined discrimination—dual characteristics. See.

⁴⁶ Alysia Blackham ‘Positive Equality Duties: The Future of Equality and Transparency?’ (2021) 37(2) *Law in Context: A Socio-Legal Journal* 98, 105, 114.

⁴⁷ *Ibid.* at 99.

⁴⁸ *Ibid.*

⁴⁹ *Elias* supra note 41, paragraph 274.

⁵⁰ *Bridges* note 14 supra at paragraph 176.

and irrespective of the outcome, ‘good processes help to make public authorities accountable to the public.’⁵¹ It noted further that the PSED helps to provide reassurance to members of the public that

whatever their race or sex...their interests have been properly taken into account before policies are formulated or brought into effect. This is reinforced by the background to the enactment of the PSED. That background is to be found in the Stephen Lawrence Inquiry Report in 1999.⁵²

Thus, the PSED requires the police in the exercise of their functions, to have due regard to the need to eliminate discrimination as a self-regulating and institutionalised measure.

The EHRC has a statutory power to issue technical guidance on the implementation of the PSED. The current guidance was updated in 2023.⁵³ According to the EHRC, the purpose of the PSED ‘is to make sure that public authorities and organisations carrying out public functions think about how they can improve society and promote equality in every aspect of their day-to-day business.’⁵⁴ In accordance with the PSED, the police as a public authority is under obligation to ‘consider, and keep reviewing, how they are promoting equality’ in their functions including ‘recruitment, promotion and performance management of employees.’⁵⁵ There is judicial backing for the authority of the EHRC to set out the guidance, or code of practice on equality duties including the PSED.⁵⁶

Section 149 of the Equality Act on PSED, and its forerunners have been subject of valuable judgments.⁵⁷ However, there have been few cases on the imperative of monitoring data regarding protected characteristics and most of these cases have been on monitoring

⁵¹ Ibid. at paragraph 176.

⁵² Ibid. at paragraph 176–177.

⁵³ Equality and Human Rights Commission ‘Technical Guidance on the Public Sector Equality Duty: England’ (April 2023). It was originally published in 2014.

⁵⁴ Equality and Human Rights Commission ‘The Public Sector Equality Duty (PSED)’ (28 June 2022) available at: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty-psed>; Equality and Human Rights Commission *ibid.* paragraph 2.25–2.30.

⁵⁵ Equality and Human Rights Commission ‘The Public Sector Equality Duty (PSED)’ (28 June 2022) available at: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty-psed>

⁵⁶ *Rex (DXK) v Secretary of State for the Home Department* [2024] EWHC 579 (Admin); *R (Kaur) v Ealing London Borough Council* [2008] EWHC 2062 (Admin).

⁵⁷ For the forerunners of Sect. 149 in the legislation that preceded the EA 2010 namely Sect. 49A Disability Discrimination Act, Sect. 76A Sex Discrimination Act 1975 and Sect. 71 Race Relations Act 1976, key judgments include *Elias* *supra* note 41; *R (BAPIO Action Ltd) v Secretary of State for the Home Department* [2007] EWHC 199 (QB); *Baker v Secretary of State for Communities and Local Government (Equality and Human Rights Commission intervening)* [2008] EWCA Civ 141; [2009] PTSR 809; *R (Brown) v Secretary of State for Work and Pensions (Equality and Human Rights Commission intervening)* [2008] EWHC 3158 (Admin); [2009] PTSR 1506; *R (Domb) v Hammersmith and Fulham London Borough Council* [2009] LGR 843. For instance, see on Sect. 149: *Hotak v Southwark London Borough Council (Equality and Human Rights Commission intervening)* [2015] PTSR 1189; [2016] AC 811; *R (Bracking) v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345; [2014] Eq LR 60; *R (Hurley) v Secretary of State for Business, Innovation and Skills* [2012] EWHC 201 (Admin); [2012] HRLR 13; *R (National Association of Health Stores) v Department of Health* [2005] EWCA Civ 154; *Haque v Hackney London Borough Council* [2017] EWCA Civ 4; [2017] PTSR 769, *R (Rowley) v Minister for the Cabinet Office* [2021] EWHC 2108 (Admin); [2022] 1 WLR 1179, *R (Sheekh) v Lambeth London Borough Council* [2022] EWCA Civ 457; [2022] PTSR 1315; and *R (Marouf) v Secretary of State for the Home Department* [2023] UKSC 23; [2023] 3 WLR 228.

data disability as a protected characteristic. Nonetheless, the developing jurisprudence on the importance of capturing relevant data and monitoring such data to inform the design and implementation of policies for promoting equality, and the Public Sector duty specifically, are germane to the discussion on race and ethnicity as a protected characteristic. In this regard, *R (DMA) v Secretary of State for the Home Department (DMA)*,⁵⁸ and *Rex (DXK) v Secretary of State for the Home Department (DXK)*⁵⁹ are particularly relevant.

In *DMA*, the High Court (of England and Wales) held that the failure of the Secretary of State for the Home Department (Secretary of State) to collect and monitor statistical data in relation to the provision of asylum accommodation to disabled people was unlawful. The court stated that for the Secretary of State of the Home Department to discharge the duty of providing accommodation for asylum seekers with disability, it is imperative to monitor information on the provisions that the Home Office was making for the target population. The case emphasised the imperative of properly capturing, and monitoring data to ensure a public sector authority discharges its equality duty. Proper monitoring of data is a 'a key means by which to identify and correct failure and to inform change,' and 'the foundation' to ensure the duty of the Secretary of State for the Home Office is discharged.⁶⁰

Furthermore, the court found that 'the Secretary of State is in breach of the public sector equality duty in failing, once she has reached a decision that she has a duty to accommodate under Sect. 4(2) of the 1999 Act, to monitor the provision of that Sect. 4(2) accommodation to individuals who have a disability.'⁶¹ Thus, the court concluded that the Secretary of State has not, in the exercise of her functions, had due regard to the need to eliminate discrimination, and to the need to advance equality of opportunity between persons who share the protected characteristic of disability and persons who do not share it.⁶² Knowles J. further reflected that the case 'highlights the importance of taking monitoring (including collection and capture of data, and evaluation) very seriously and doing it well.'⁶³

The High Court in *DXK* applied the decision in *DMA* in a case that further drives home the imperative of effective collection and monitoring of statistical equality data required for discharging the PSED in Sect. 149 (1) (b). The claimant, *DXK*, a pregnant failed asylum seeker with no right to work or recourse to public funds, sought judicial review of the duty of the Secretary of State for the Home Department (Secretary of State), to provide her with accommodation within a reasonable period under Sect. 4(2) of the Immigration and Asylum Act 1999. *DXK* further brought a claim under the PSED on the continuing failure to collect and monitor relevant statistical data on the allocation of dispersal accommodation to pregnant, and new mother asylum seekers. In this regard, the claimant contended that such monitoring was necessary to ensure the discharge of the Secretary of State's duties to that vulnerable group.

⁵⁸ EWHC 3416 (Admin); [2021] 1 WLR 2374.

⁵⁹ [2024] EWHC 579 (Admin).

⁶⁰ *DMA* supra note 58, paragraph 238, see also 239 and 320.

⁶¹ Ibid. paragraph 325.

⁶² Ibid.

⁶³ Ibid. paragraph 342.

The Secretary to the Home Department accepted that he had a duty to provide accommodation for the claimant. The court held that the Secretary of State was in breach of the PSED under Sect. 149(1)(b) of the Equality Act 2010 for failing to effectively collect and monitor statistical equality data relating to the provision of that accommodation to vulnerable individuals, such as pregnant and new mother asylum seekers, and failed asylum seekers. The Secretary of State had not had due regard to the need to eliminate discrimination, advance equality of opportunity between persons who shared the protected characteristic of pregnancy, maternity and age and persons who did not share them. Even more crucially for the discussion in this article, the court further held that the Secretary of State had failed to proactively consider whether his policies and practices were sufficient to achieve their Sect. 149(1)(b) objectives, and which equality evidence relevant to the discharge of that duty he needed to obtain and was consequently, in breach of the PSED in that respect.⁶⁴

In *Bridges*,⁶⁵ the issue turned partly on alleged breach of the PSED in relation to race and gender on the deployment of facial recognition technology by Wales Police. The claimant, Edward Bridges, challenged the lawfulness of the use of live automated facial recognition technology (AFR) by the South Wales Police Force (SWP) in an ongoing trial using a system called AFR Locate. AFR Locate involves the deployment of surveillance cameras to capture digital images of members of the public, which are then processed and compared with digital images of persons on a watchlist compiled by SWP for the purpose of the deployment. The grounds of challenge were that AFR is not compatible with the right to respect for private life under Article 8 of the European Convention on Human Rights, data protection legislation, and violation of the PSED. The PSED claim was to the effect that the SWP did not consider the possibility that AFR Locate might produce results that were indirectly discriminatory on grounds of sex and/or race because it produces a higher rate of positive matches for female faces and/or for Black and minority ethnic faces. The trial court rejected all the claims, and the claimant appealed.

On appeal to the Court of Appeal, the Appellant argued that the PSED is a continuing duty. The Appellant argued that SWP are in breach of the PSED because they have never had due regard to the need to eliminate discrimination on grounds of race and gender which may arise from the software which is used in the deployment of AFR Locate. There is scientific evidence that facial recognition software can be biased and create a greater risk of false identifications in the case of people from BAME backgrounds, and in the case of women.⁶⁶ The Court of Appeal upheld, among others, the claim on the alleged breach of the PSED. It noted that the Appellant's claim on the PSED was not based on the negative obligations in the Equality Act not to discriminate (whether directly or indirectly), but rather on an alleged breach of the positive duty to have due regard to the need to eliminate discrimination. It held, that there was a breach of the PSED.

The Court of Appeal has stated that 'Public concern about the relationship between the police and BAME communities has not diminished in the years since the Stephen Lawrence Inquiry Report.'⁶⁷ The tenor of the jurisprudence on the

⁶⁴ *DXK* note 59 paragraphs 152–158.

⁶⁵ *Bridges* note 14 supra.

⁶⁶ *Ibid.* at paragraph 162.

⁶⁷ *Bridges* note 14 supra at paragraph 162.

nature of the obligation of a public sector organisation like the police is that it is context dependent.⁶⁸ As the Supreme Court of the United Kingdom held in *Hotak* ‘the weight and extent of the public sector equality duty are highly fact-sensitive’.⁶⁹ It has already been established both by publicly available government statistics and the Freedom of Information requests discussed above that BAME people are under-represented in the police forces in England and the UK more generally. Thus, there is a duty on the police forces under the PSED, to have due regard to the need to advance equality of opportunity in the recruitment and retention of BAME people. There is also a connected duty to minimise or reduce the disadvantages they face in joining or staying in the police forces. The duties require collecting data, monitoring the data, and storing them in an accessible form to enable them to fulfil their PSED with reference to recruitment and retention of BAME people in the light of the persisting underrepresentation in the police forces. These duties are imperative in the context and are positive obligations of a continuing nature as restated by the courts in various decisions including *Hotak* (Supreme Court),⁷⁰ *Bracking*⁷¹ and, *Bridges*⁷² (Court of Appeal).

Furthermore, with reference to the duty to have ‘due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it’ the public authority is required to have due regard to ‘the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low’.⁷³ Each of these aspects of the PSED are directly and majorly implicated in the issues of recruitment and retention of the BAME individuals into the police in England (and the UK generally).

The statistics on recruitment and retention of BAME individuals show that the police forces in England are not representative of the proportion of that segment of the population in the UK. Thus, there is a clear duty on the police forces to put in place measures to address the disproportionately small numbers of BAME police officers across the 39 police forces in England as well as the British Transport Police. That will require measures that include keeping easily retrievable and accessible numbers of applicants, successful, employed and retained members of the BAME individuals as an identified group.

Section 149 imposes a duty upon public authorities, including government departments, as well as persons who are not public authorities but exercising public functions, to have due regard to equality considerations in the exercise of their

⁶⁸ Ibid. at paragraph 181.

⁶⁹ *Hotak* note 57 supra at paragraph 74.

⁷⁰ Ibid. at paragraph 73.

⁷¹ *Bracking* note 57 supra at paragraph 26 and 27.

⁷² *Bridges* note 14 supra at paragraph 178.

⁷³ Section 149 (4) Equality Act 2010.

functions.⁷⁴ This is because as the Court of Appeal stated in *Bridges* ‘the whole purpose of the positive duty (as opposed to the negative duties in the Equality Act 2010) is to ensure that a public authority does not inadvertently overlook information which it should take into account’ in the performance of its functions.⁷⁵

In sum, two of the four cases discussed above focused on disability, but the core principle enunciated in them regarding collection, capturing and monitoring of data on disability is relevant with equal force to other protected characteristics including race, and ethnicity. The third case, *Bridges*⁷⁶ as we all *Hotak* are even more to the point on the focus of this article, as they reinforce the need for ongoing positive action in relation to equality concerns in policing regarding BAME.

International Legal Obligation of the United Kingdom to Eliminate All Forms of Racism

Equality and non-discrimination are the foundations of the international human rights system.⁷⁷ Consequently, most core and specialised human rights instruments ‘guarantee the right to equality and non-discrimination’.⁷⁸ It is relevant to note that on the international front, the United Kingdom has been in the forefront of the development and promotion of international human rights law generally. This is notably the case in the international human rights system anchored within the United Nations on the elimination of racism, the institution of equality, and the prohibition of discrimination. It is on record that the United Kingdom not only contributed to the development of each of the key international instruments guaranteeing these rights, but and was also an early ratifier of the instruments to make them binding on her as a State Party.⁷⁹ While there are several human rights instruments in the UN Human Rights System that guarantee equality and non-discrimination, the one of primary interest here is the ICERD. The ICERD is the ‘centerpiece of the international regime for the protection and enforcement of the right against racial discrimination.’⁸⁰

The core objective of, and main duty imposed by the ICERD on State Parties is the elimination of racism. State Parties are required to eliminate racial discrimination against

⁷⁴ See for instance *R (on the application of Adiatu and the IWGB (claimants)) v HM Treasury (defendant)* [2020] EWHC 1554 (Admin); [2020] IRLR 658, 659.

⁷⁵ *Bridges* note 14 supra at paragraph 182.

⁷⁶ *Ibid.*

⁷⁷ Daniel Moeckli ‘Equality and Non-Discrimination’ in Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran (4th edition Oxford University Press, Oxford 2022) 151, 152.

⁷⁸ *Ibid.*

⁷⁹ See the International Covenant on Civil and Political Rights (ICCPR) adopted 16 December 1966 by General Assembly Resolution 2200A (XXI), entered into force on 23 March 1976; the International Covenant on Economic, Social and Political Rights (ICESCR) adopted 16 December 1966 by General Assembly Resolution 2200A (XXI), entered into force on 3 January 1976, both of which the United Kingdom ratified in 1976, the same year they came into force.

⁸⁰ Gay McDougall ‘The International Convention on the Elimination of All Forms of Racial Discrimination’ (United Nations Audiovisual Library of International Law 2021) available at: <https://legal.un.org/avl/ha/cerd/cerd.html>

individuals, groups of persons or institutions, and ensure that their public authorities and institutions do the same. State parties are not to sponsor, defend or support racial discrimination by persons or organizations. They are under obligation to review their national and local policies, and amend or repeal laws and regulations which create or perpetuate racial discrimination. Furthermore, State Parties have the duty to prohibit and put a stop to racial discrimination by persons, groups, and organizations. They are required to encourage integrationist or multiracial organizations and movements and other means of eliminating barriers between races, as well as to discourage anything which tends to strengthen racial division.⁸¹

An important part of the mandate of the CERD, like other treaty bodies, is the interpretation of the provisions of the ICERD. It makes 'recommendations on any issue relating to racial discrimination to which it believes the States parties should devote more attention.'⁸² It does this through its 'General Recommendations' which variously provide authoritative interpretation of some of the substantive provisions of the ICERD, general guidance on the reporting requirements for the periodic reports of State Parties relating to specific articles of the treaty, and general comments on cross-cutting issues, like the rights of minorities, as other treaty bodies.⁸³

General Recommendations also known as 'General Comments' in other treaty bodies, are 'extremely useful jurisprudential tools.'⁸⁴ While some controversy remains as to their legal status,⁸⁵ they are considered authoritative in the jurisprudence of national and international courts.⁸⁶ As the International Court of Justice (ICJ) has noted, it is appropriate to 'take due account of,'⁸⁷ and 'ascribe great weight to the interpretation' of the provisions of a treaty adopted by a body established to monitor the sound application of the treaty.⁸⁸ The ICJ made the point that this is 'to achieve the necessary clarity and the essential consistency of international law, as

⁸¹ See Articles 1 and 2 of ICERD for these duties and obligations.

⁸² Committee on the Elimination of Racial Discrimination [General recommendations I OHCHR](#).

⁸³ Jane Connor 'United Nations' in Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran (3rd edition Oxford University Press, Oxford 2018) 369–409, 391–392; Ilias Bantekas and Lutz Oette *International Human Rights Law and Practice* (2nd edition Cambridge University Press, Cambridge 2016) 208–2012. Office of the Higher Commissioner for Human Rights 'The United Nations Human Rights System Fact' Sheet No. 30/Rev.1 (New York and Geneva 2012) 36, available at: [FactSheet30Rev1.pdf \(ohchr.org\)](#).

⁸⁴ Sarah Joseph and Joanna Kyriakakis 'The United Nations and Human Rights' in Sarah Joseph and Adam McBeth *Research Handbook on International Human Rights Law* (Edward Elgar Publishing Incorporated Cheltenham 2010) 1–35, 23; for a discussion on the nature and development of general discussion of General Comments/General Recommendations, see Philip Alston, and Ryan Goodman *International Human Rights* (Oxford University Press, Oxford 2013) 791–807.

⁸⁵ For different positions on this, see Helen Keller and Leena Grover, 'General Comments of the Human Rights Committee and their Legitimacy' in Helen Keller and Geir Ulfstein (eds.) *UN Human Rights Treaty Bodies* (Cambridge University Press, Cambridge 2012) 116–198; cf. Y. Tyagi *The UN Human Rights Committee: Practice and Procedure* (Cambridge University Press, Cambridge 2011).

⁸⁶ Ilias Bantekas and Lutz Oette *International Human Rights Law and Practice* (2nd edition Cambridge University Press, Cambridge 2016) 211.

⁸⁷ International Court of Justice *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 639, 664.

⁸⁸ Ibid.

well as legal security, to which both the individuals with guaranteed rights and the States obliged to comply with treaty obligations are entitled.’⁸⁹

Significantly, as far back 2005, the CERD had stated that one of the factual indicators of racial discrimination which State parties should pay ‘greatest attention’ to is the insufficient representation of persons belonging to certain groups among the ranks of the police, in the system of justice, including judges and jurors, and in other law enforcement departments.⁹⁰ These are principally ‘racial or ethnic groups... persons discriminated against because of their descent, as well as other vulnerable groups which are particularly exposed to exclusion, marginalization and non-integration in society’.⁹¹ This was in its General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.⁹² BAME in the UK fit-well into the category.

The CERD went on to affirm that one of the national strategies States need to adopt to prevent racial discrimination in the administration of justice and the functioning of the criminal justice system is to promote proper representation of persons belonging to racial and ethnic groups in the police, and the system of justice.⁹³ Furthermore, it requires that in order for the factual indicators to be ‘well known and used’, States Parties need to ‘embark on regular and public collection of information from police, judicial and prison authorities and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data.’ These obligations accord with the PSED provisions of the Equality Act. It is now apt to move on to the findings and discussion of the FOIs regarding the data on recruitment and retention of BAME.

Findings and Discussion

The empirical findings, depicted in Fig. 1, reveal that only 17 of the 40 police forces responded to the FoI requests—and even those responses were often incomplete. Among those who responded, some refused the FoI requests based on one, or more interconnected elements revolving around the cost of compliance with the request. A representative example is set out in the Refusal Notice of Thames Valley Police (one of the largest police forces in England), which stated that though available, the requested information

is not held in an easily retrievable format. To accurately provide data for the specifics of this request would require all archived data (both paper and electronic) to be reviewed for certain parts of this time frame. Due to the time of

⁸⁹ International Court of Justice *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 639, 664.

⁹⁰ Section I paragraph 1(g).

⁹¹ Ibid. Preamble.

⁹² Committee on Elimination of Racial Discrimination, Sixty-fifth Session (2005) General Recommendation XXXI on The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, available at: tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FGE C%2F7503&Lang=en (accessed 02 August 2024).

⁹³ Section I paragraph 5(d).

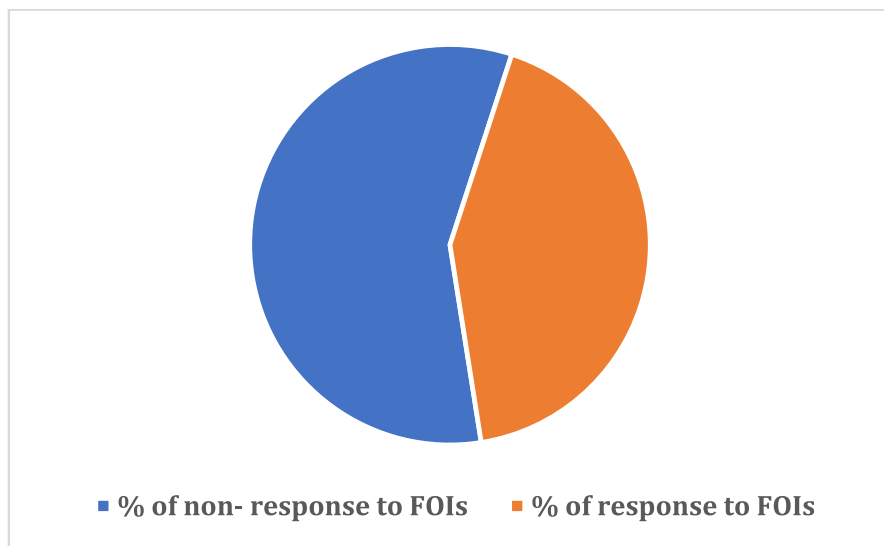


Fig. 1 Overall FOIs response breakdown

10 years, systems and ways of recording and storing data would have updated and changed over the years, and manual review of this data would be required. Due to the volume of reports to manually review to fulfil this request would quickly exceed the appropriate 18-hour time and £450 cost limit.⁹⁴

On these bases, the Thames Valley Police rejected the FoI request.⁹⁵ The London Metropolitan Police (London Met),⁹⁶ the Greater Manchester Police (GMP),⁹⁷ and Kent Police⁹⁸ also gave similar reasons for refusing the request. The West Midlands Police did not respond at all. GMP, ‘as a gesture of goodwill,’ had offered a response to the first question on the various routes for the employment of police officers in the refusal notice.⁹⁹ However, they provided no suggestions on how to refine or reduce the requests to keep them within the fees limit. Thames Valley Police, London Met, and Kent Police separately indicated that they would consider an amended/refined request that reduces the number of years requested from 10 to 5 years/and or, excluded one, two, or even three of the initial five requests. Thames Valley Police suggested a ‘significant’ reduction of ‘the time frame and scope of your request, for instance, only requesting total number of officers who are currently employed or figures for the last 5 years, including ethnicity breakdown.’¹⁰⁰ This reduction ‘may

⁹⁴ Letter Ref. No. 01/FOI/24/012108/S dated 13 June 2024, on file with the author.

⁹⁵ Letter Ref. No. 01/FOI/24/012108/S dated 13 June 2024, on file with the author.

⁹⁶ Letter Ref. No. 01/FOI/24/03842 dated 14 June 2024, on file with the author.

⁹⁷ Letter Ref. No. 01/FOI/24/012781/T dated 28 June 2024, on file with the author.

⁹⁸ Letter Ref. No. 00905/24 dated 2 July 2024, on file with the author.

⁹⁹ Letter Ref. No. 01/FOI/24/012781/T dated 28 June 2024, on file with the author.

¹⁰⁰ Letter Ref. No. 01/FOI/24/012108/S dated 13 June 2024, on file with the author.

increase the likelihood of data being returned within the constraints.’¹⁰¹ The London Met stated that narrowing the requests to a single year ‘would still exceed cost limitations’, but that if a further Freedom of Information Act request was submitted on the first, second and third questions, they ‘may consider this information for release.’¹⁰² Kent Police suggested refining two of the questions by limiting the number of years of requested data to bring the application within the cost limit.¹⁰³

The prompt negative responses from the police forces mentioned above led me to rethink the length of years I requested for the respective data, and I surmised that a reduction along those lines they indicated could yield positive results. Thus, new requests were made accordingly to those forces that had requested amendments in line with their suggestions and the same requests seeking five-year data on each of the five questions was also made to 21 Forces in England that had not been contacted previously. A new FoI request for the same information but for only five years, was sent to the Greater Manchester Police. The GMP also responded with notice of refusal to the second request. The GMP now suggested that to keep the request within the fees limit, the information being requested ‘will need to be reduced to a greatly reduced time period.’¹⁰⁴ They did not offer what that period could be. Similarly, a second request made to Thames Valley Police complying with their suggested framing of the questions did not elicit any response from them. Kent Police is the exception in this regard. They provided a positive response to the further request made in accordance with the specification in their refusal notice.¹⁰⁵

A further reason that was sometimes provided in the negative responses from a few of the police forces is typified by part of the first FoI response from Kent Police that ‘Police workforce statistics can be found online.’¹⁰⁶ As a ‘goodwill gesture’, the Greater Manchester Police provided a similar response in the refusal notice to the fifth question in the initial FoI request.¹⁰⁷ A variant of the same response is contained in the first refusal notice from the London Met where they stated that they ‘also regularly publish Data, Statistics and Information on various aspects of Policing and Crime’ on their website.¹⁰⁸

As mentioned above, all the police forces were invited to answer 5 questions relating to Black and Minority Ethnic recruitment over the last 10 (or 5) years. Seventeen (17 Nos.) police forces responded to the FoIs. Six (6 Nos.) police forces responded twice, leading to a total of 23 responses.¹⁰⁹

¹⁰¹ Letter Ref. No. 01/FOI/24/012108/S dated 13 June 2024, on file with the author.

¹⁰² Letter Ref. No. 01/FOI/24/03842 dated 14 June 2024, on file with the author.

¹⁰³ Letter Ref. No. 00905/24 dated 2 July 2024, on file with the author.

¹⁰⁴ Letter Ref No. 01/FOI/24/012877/A, dated 14 July 2024, on file with the author.

¹⁰⁵ Letter Ref. No. 00999/24, dated 2 July 2024, on file with the author.

¹⁰⁶ Letter Ref. No. 00905/24 dated 2 July 2024, on file with the author.

¹⁰⁷ Letter Ref. No. 01/FOI/24/012781/T dated 28 June 2024, on file with the author. ‘Police workforce statistics can be found online. This provides the data breakdown by local forces and ethnicities. <https://www.gov.uk/government/collections/police-workforce-england-and-wales#history>’.

¹⁰⁸ Letter Ref. No. 01/FOI/24/03842 dated 14 June 2024, on file with the author.

¹⁰⁹ The following responded twice: British Transport Police, Durham Police, Greater Manchester Police, Kent Police, Leicestershire Police, and London Metropolitan Police, while the following responded once: Cambridgeshire Police, Derbyshire Police, Gloucestershire Police, Hertfordshire Police, Humberside Police, Lincolnshire Police, Nottinghamshire, Merseyside Police, South Yorkshire Police, Surrey, and Thames Valley Police.

Findings by Question

‘Partial’ and ‘No’ responses have been combined in Tables 2 and 3, and Figs. 2 and 3.

As Table 2 and Table 3 show, none of the 17 police forces that responded out of the 40 under consideration, was able to provide the requested data across the five questions in the FoIs for the ten year-time period.

The situation of incomplete or lack of data on recruitment and retention of BAME persisted across the police forces even when the FoI request was reduced to a 5 year-period. Only one was able to conditionally provide the complete information for 5 years. It is important to keep in mind that as discussed earlier under the Equality Act 2010 and specifically under PSED, all the 39 territorial police forces as well as the British Transport Police are under an obligation to have accessible records on the recruitment and retention of BAME from April 2010.

As Figs. 2 and 3 further show, the police forces that bothered to respond lacked, or could not provide complete, easily accessible data for a duty that had arisen since 2010.

Those who responded at all—whether positively, partially, negatively -, constituted only 43% of the territorial forces across England, including the British Transport Police. The rest of this section presents a breakdown of the responses of the 17 police forces to each question in the FoIs.

Question 1

The various routes for the employment of police officers, including apprenticeships and any other identified pathways for the past 10 years (if possible, in tabulated format).

Summary of Findings

Table 4 shows the various routes/schemes provided by the police forces for recruitment into the police forces. They variously used some of the routes. None

Table 2 Breakdown of responses to the 10 year-timeframe

	Q1	Q2	Q3	Q4	Q5
Yes Response (10 years)	11	0	0	7	13
No and Partial Response (10 years)	7	18	18	11	5

Table 3 Breakdown of responses to the 5 year-period

	Q1	Q2	Q3	Q4	Q5
Yes Response (5 Years)	3	3	2	4	3
No and Partial Response (5 years)	2	2	3	1	2

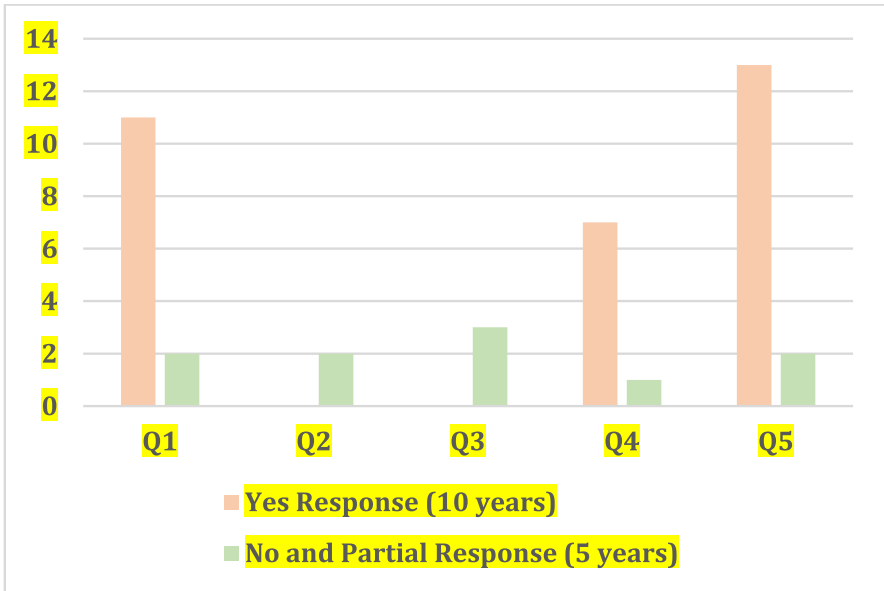


Fig. 2 Responses for last 10 years (per question)

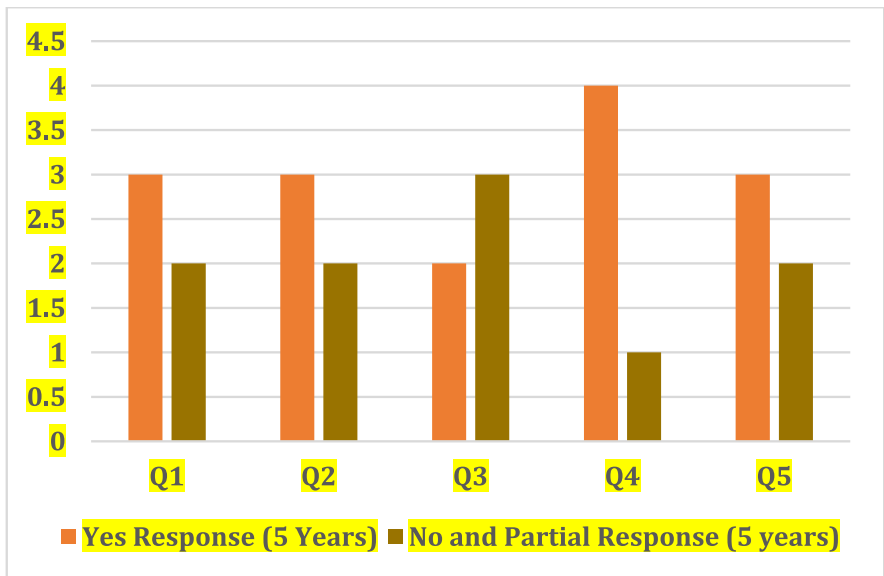


Fig. 3 Responses for last 5 years (per-question)

of them used all the routes/schemes identified here. In some cases, the nomenclature differs, but the routes refer to the same scheme. These various routes/schemes are shown on Table 4.

Tables 2 and 3 show that for this basic question, not all the police forces that responded to the FoIs could provide accessible records of the routes they had used for recruitment for the periods requested (10 or 5 years). Eleven of the police forces had records covering 10 years and 3 of them had records covering 5 years. This data gap on the routes for employment into the police forces sets the tone of the status of record capture and monitoring on recruitment into the police forces, and with specific reference to BAME. The situation regarding this first question negatively impacted the response by the police forces to the next question.

Question 2

The number of Black, Asian, and Minority Ethnic applications received for the past 10 years (if possible, in tabulated format). The 5-year response is also included as some forces did not provide a response for the 10-year period.

Summary of Findings

Of the 17 distinct responses to question 2, the Table 5 shows a breakdown according to the time frames stated in the FoIs. Kent police sent in 2 responses to the 10-year questionnaire, hence the total shows 18. 5 police forces sent in responses to the

Table 4 Police force routes of employment

1	Police Constable Degree Apprenticeship (PCDA)
2	Degree Holder Entry Programme (DHEP)
3	Detective Constable Degree Holder Entry Programme (DC DHEP)
4	Police Constable Entry Programme (PCEP)
5	Initial Police Learning and Development Programme (IPLDP)
6	Accelerated Detective Constable Programme (ADCP)
7	Police Now
8	Pre join Degree in professional policing (PPD)/DiPP
9	Pre-Entry Route
10	Detective PCEP
11	DCEP
12	Transferees (Including Part of the promotion process)
13	Rejoiner
14	Secondment
15	PSCO Apprenticeship
16	Special Induction Training Course
17	IO Induction Training Course

Table 5 Responses to question 2

	Total number of Responses to Q2 (10 years)	Total number of Responses to Q2 (5 years)	% Breakdown of Responses to Q2 (10 years)	% Breakdown of Responses to Q2 (5 years)
No response	7	2	39%	40%
Yes (Full) response	11	3	61%	60%
Total Response	18	5	100%	100%

5-year questionnaire. Charts below show the number of years provided by each of the responding Police Forces (Table 5, Figs. 4 and 5).

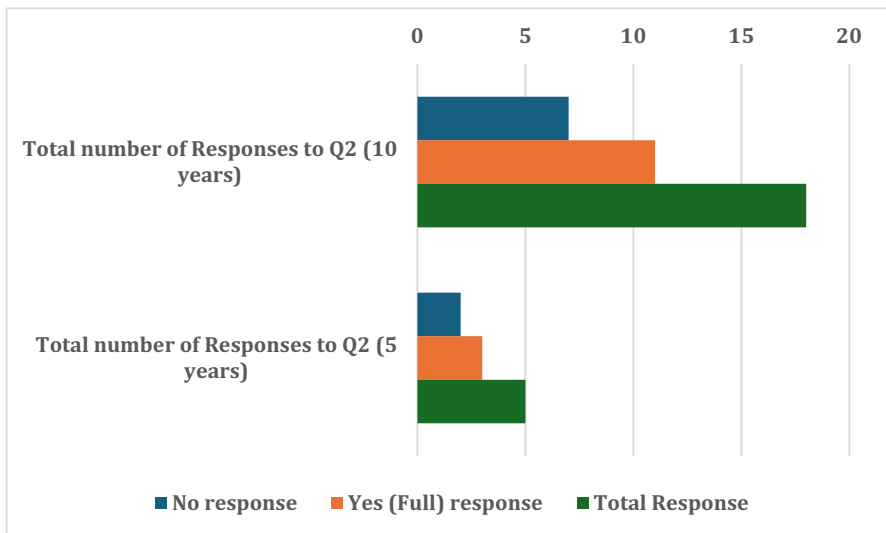
None of the police forces that submitted responses for the 10-year period provided a full response to question 2. However, of those that provided a 5-year response, 60% provided a full response.

Police forces that did not respond to Question 2, provided the reason outlined in Table 6.

With a view to secure more responses, a modified questionnaire was sent out with the same questions, but with a reduced period data request of 5, rather than 10 years. Five police forces responded with four providing the data, and one refusing to do so.

Question 3

The number of Black, Asian, and Minority Ethnic applicants who they invited for interviews for the past 10 years (if possible, in tabulated format). The 5-year

**Fig. 4** Breakdown of Q2 responses

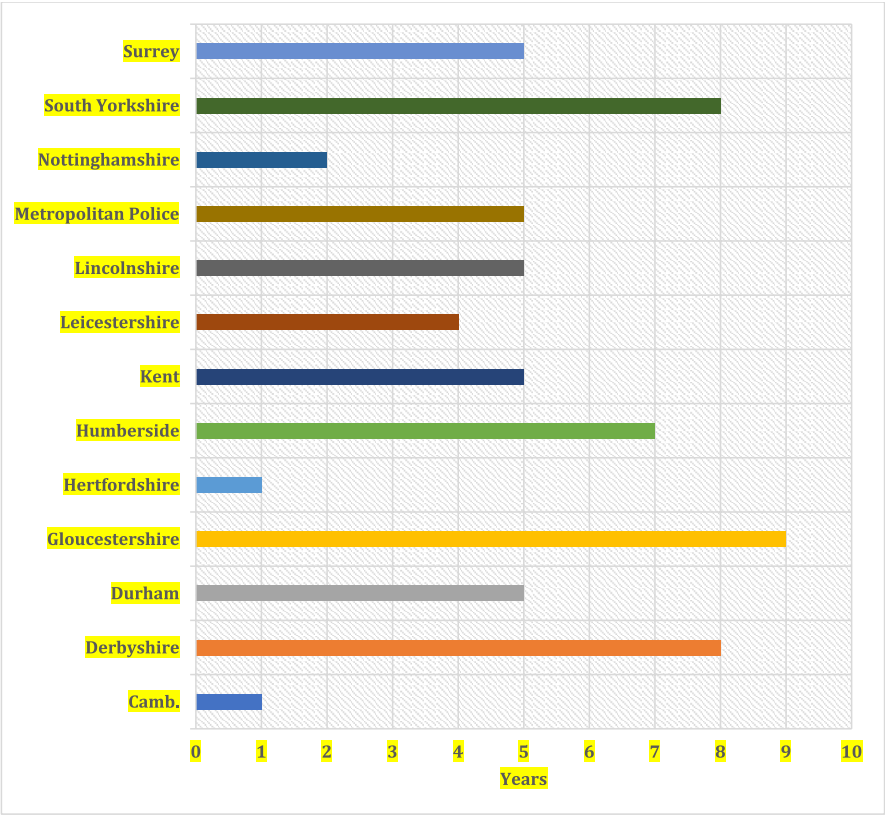


Fig. 5 Number of years data provided for question 2

Table 6 Reasons for not answering question 2

	Data available	Not Easily Accessible	Exceeds statutory cost limit	System Change
British Transport Police	✓	✓	✓	
Durham (1st Response)	✓	✓	✓	
Greater Manchester	✓	✓	✓	
Kent (1st Response)	✓	✓	✓	
Lincolnshire	✓			
London Metropolitan Police	✓		✓	
Merseyside	✓			✓
Thames Valley	✓	✓	✓	

response is also included as some forces did not provide responses for the 10-year period.

Summary of Findings

Responses to this question demonstrate that of the forces that completed this question, none provided an ethnic breakdown of applicants for the last 10 years, however 2 police forces were able to provide responses for the last 5 years. Incomplete responses to questions are considered as no response and these findings are reflected in Table 7, Fig. 6, and Fig. 7.

The chart below provides a breakdown of the number of years data that the police forces provided for this question.

For those Police forces that did not provide a response to Question 3, the reason for refusal is outlined in Table 8.

A second questionnaire with a shorter period requirement (5 years) was sent out with 4 of the police forces responding. Of these, only 2 police forces provided data for

Table 7 Response of police forces to question 3

Nature of Response	Total number of Responses to Q3 (10 years)	Total number of Responses to Q3 (5 years)	% Breakdown of Responses to Q3 (10 years)	% Breakdown of Responses to Q3 (5 years)
No response	18	3	100%	60%
Yes response	0	2	0%	40%
Total Response	18	5	100%	100%

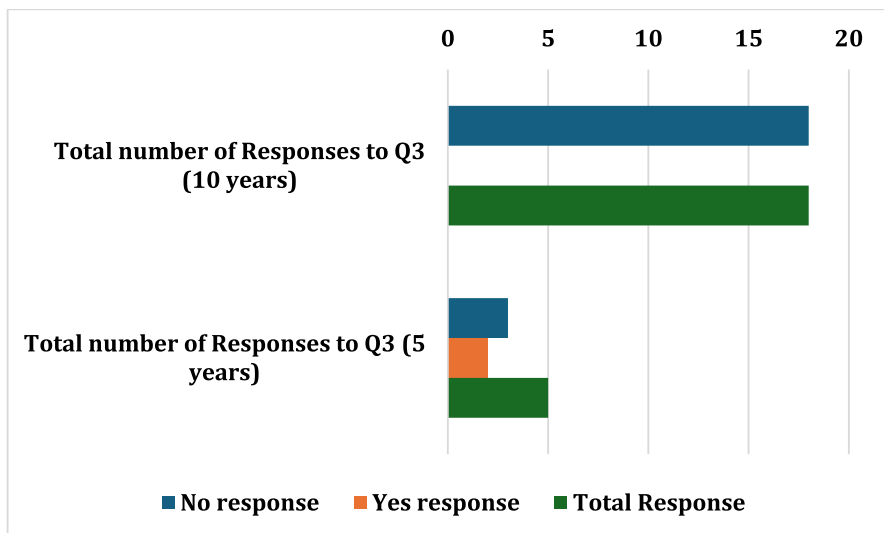


Fig. 6 Breakdown of Q3 responses

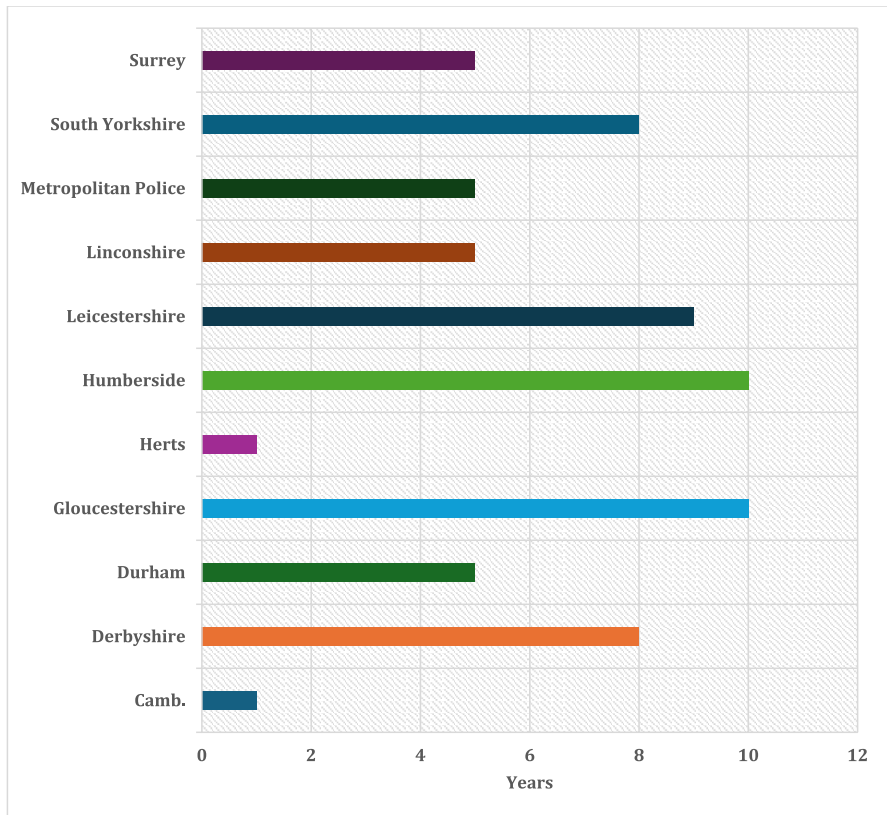


Fig. 7 Number of years data provided for question 3

Table 8 Reasons for not answering question 3

	Data available	Not Easily Accessible	Exceeds appropriate limit	System Change
British Transport Police	✓	✓	✓	
Durham (1st Response)	✓	✓	✓	
Greater Manchester	✓	✓	✓	
Kent (1st & 2nd Response)	✓	✓	✓	
Metropolitan Police	✓		✓	
Merseyside	✓			✓
Nottinghamshire			✓	✓
Thames Valley	✓	✓	✓	

the requested period. In effect, majority of the police forces in England were not forthcoming on the numbers of applications received from BAME individuals in the period which included the Uplift Programme mentioned earlier. It is relevant to recall the government intended that the programme not only increase the general headcount, but also make a substantial contribution to representative policing.

Question 4

The number of Black, Asian, and Minority Ethnic applicants who were employed for the past 10 years (if possible, in tabulated format). The 5-year response is also included as some forces did not provide responses for the 10-year period.

Summary of Findings

Responses to this question reflect responses for the different periods, with higher positive responses for those forces answering for 5 years compared to those answering for 10 years. The findings are reflected in Tables 9 and 10, as well as Fig. 8.

Here again, there are less responses for the last 10-year period than the 5-year period on the number of Black, Asian, and Minority Ethnic applicants who were employed.

Those police forces that did not provide a response to this question cited the reasons displayed in Table 10, with two police forces providing links to the data collected on the government's portal (gov.uk).

Table 9 Response of police forces to question 4

	Total number of Responses to Q4 (10 years)	Total number of Responses to Q4 (5 years)	% Breakdown of Responses to Q4 (10 years)	% Breakdown of Responses to Q4 (5 years)
No response	11	1	61%	20%
Yes response	7	4	39%	80%
Total Response	18	5	100%	100%

Table 10 Reasons for not answering question 4

	Data available	Not Easily Accessible	Exceeds appropriate cost limit	System Change	Available Online
British Transport Police	✓	✓	✓		
Greater Manchester (1st & 2nd Response)	✓	✓	✓		
Kent (1st & 2nd Response)	✓	✓	✓	✓	
London Metropolitan	✓		✓		
Merseyside					✓
Surrey					✓
Thames Valley	✓	✓	✓		

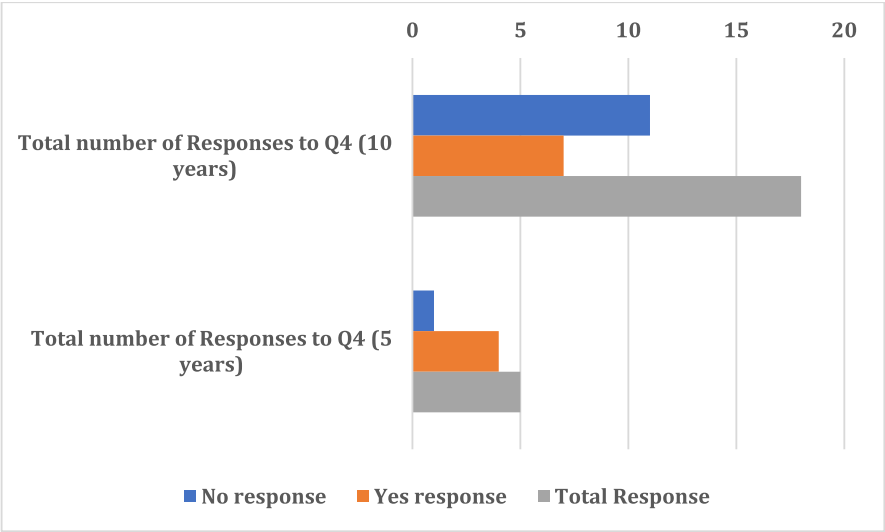


Fig. 8 Breakdown of responses to question 4

Question 5

The number of Black, Asian, and Minority Ethnic individuals who are still currently employed as police officers.

Summary of Findings

Responses to this question reflect responses for the different periods, with higher proportion of positive responses for those forces answering for 10 years compared to those answering for 5 years as shown in Table 11. The reasons provided for not responding are set out in Table 12.

Table 11 Response of police forces to Question 5

	Total number of Responses to Q5 (10 years)	Total number of Responses to Q5 (5 years)	% Breakdown of Responses to Q5 (10 years)	% Breakdown of Responses to Q5 (5 years)
No response	2	2	13%	40%
Yes response	13	3	87%	60%
Total Response	15	5	100%	100%

Table 12 Reasons for not answering Question 5

	Data available	Not Easily Accessible	Exceeds appropriate limit	Available online	Data Privacy
British Transport Police	✓	✓	✓		
Greater Manchester (1st & 2nd Response)	✓	✓	✓	✓	
Kent (1st Response)	✓	✓	✓		
London Metropolitan	✓	✓	✓		✓
Thames Valley	✓	✓	✓		

All the questions in the FoIs, except for question 1, provide a basis for evaluating the compliance, or otherwise of the police forces with their equality duties regarding keeping accessible data on the recruitment, and retention of individuals from BAME backgrounds in the police forces.

Keep in mind that the foregoing data is from the 17 police forces that responded with the majority; 23, did not respond at all to the request. The lack of response from 23 police forces suggests either that they do not have the data at all, or that the records are not easily accessible. Tables 13 and 14 show the police forces that did not respond at all, and those that responded to the FoIs, respectively.

Table 13 Polices forces that did not respond to the FoIs

England Police Forces & British Transport Police	Response
Avon and Somerset Constabulary	N
Bedfordshire Police	N
Cheshire Constabulary	N
City of London Police	N
Cleveland Police	N
Cumbria Constabulary	N
Devon & Cornwall Police	N
Dorset Police	N
Essex Police	N
Hampshire Constabulary	N
Lancashire Constabulary	N
Norfolk Constabulary	N
North Yorkshire Police	N
Northamptonshire Police	N
Northumbria Police	N
Staffordshire Police	N
Suffolk Constabulary	N
Sussex Police	N
Warwickshire Police	N
West Mercia Police	N
West Midlands Police	N
West Yorkshire Police	N
Wiltshire Police	N

Table 14 Polices forces that responded to the Fols

England Police Forces & British Transport Police	Response
British Transport Police	Y
Cambridgeshire Constabulary	Y
Derbyshire Constabulary	Y
Durham Constabulary	Y
Gloucestershire Constabulary	Y
Greater Manchester Police	Y
Hertfordshire Constabulary	Y
Humberside Police	Y
Kent Police	Y
Leicestershire Police	Y
Lincolnshire Police	Y
Merseyside Police	Y
Metropolitan Police Service	Y
Nottinghamshire Police	Y
South Yorkshire Police	Y
Surrey Police	Y
Thames Valley Police	Y

The current data gap is more than an administrative oversight; it reflects a systemic failure to implement the PSED. In the current context of BAME underrepresentation in policing, the Equality Act 2010 requires police forces in England (and the UK more widely) to collect, keep, and monitor information about the applications made by BAME, the failure and success of such applications, and the retention figures of people from BAME. Where the information on BAME applications is not available, either as a result of their non-collection, or they are declared to be available, but not in an easily retrievable format, this constitutes an impediment to the positive duty of the police forces to have due regard to the need to eliminate discrimination, and to the need to advance equality of opportunity between persons who share the protected characteristic of BAME and persons who do not share it. By not maintaining accessible records, police forces are effectively evading their duty to monitor and advance equality, as mandated by both the Equality Act 2010 and international standards under ICERD. Significantly, this deficiency obstructs the ability to evaluate whether recruitment initiatives genuinely contribute to making policing a “force for all.”

Conclusion and Recommendations

In recognition and fulfilment of part of its obligations under the ICERD, the United Kingdom has enacted legislation on equality and elimination of all forms of discrimination. The pinnacle of the legislative efforts is the Equality Act 2010, and a notable provision is the specific PSED. The Equality Act and the PSED Duty which imposes an additional positive duty on public bodies to ensure equality in its functions, came into effect for the police forces in England (and Wales) since April 2010. However, the

UK Police forces have remained in breach of the provisions of the PSED with specific reference to failures on race monitoring in recruitment and retention of individuals from BAME backgrounds.

Embedding equality in policing and ensuring that the police represent the communities they serve remain a major challenge in UK policing. The state of accessible data on the recruitment and retention of people from BAME communities suggests that the police forces in England (who constitute the largest part of the police forces in the United Kingdom) is far from being in tandem with their national and international equality obligations as public sector organisations. The police forces as public sector organisations need to close this yawning gap between equality law and their institutional arrangements as part of credible efforts to ensure equality and eliminate discrimination in UK policing.

The failure of UK police forces to maintain accessible records on BAME recruitment and retention constitutes a breach of both domestic legal duties under the Equality Act 2010 and international obligations under human rights law. The data gap not only obscures the true extent of racial disparities within policing, but also impedes the formulation of effective policies to address them. By integrating human rights scholarship with empirical data from FOIs, this study highlights the critical need for data-driven accountability mechanisms as a cornerstone of equality law. Addressing this gap is essential for transforming the police into a truly representative and accountable institution—a goal that is as much about upholding human rights as it is about improving public safety.

The data gap is not just a breach of the Equality Act 2010; it also hinders much needed applied and academic research vital for deeper understanding of the challenges to policing and the criminal justice system. Relevant research helps in developing positive changes within the policy and legislative frameworks. In a similar vein, there is a need for standardisation, by all police forces across the country, of the process of data collection, monitoring and publication – so that it is easily available and accessible.

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Data Availability On file with author.

Declarations

Competing Interests The authors declare no competing interests.

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